THE GENERAL STATUTES OF NORTH CAROLINA

ANNOTATED

1996 CUMULATIVE SUPPLEMENT

Volume 17

Chapters 117 through 129

Prepared under the Supervision of

The Department of Justice
of the State of North Carolina

BY

The Editorial Staff of the Publishers

Under the Direction of

D. S. Tussey, K. S. Mawyer, R. B. Layne,
K. J. Kennedy and F. J. Payne

Annotated through 470 S.E.2d 425. For complete scope of annotations, see scope of volume page.

Place Behind Supplement Tab in Binder Volume. This Supersedes Previous Supplement, Which May Be Retained for Reference Purposes.

MICHIE
Law Publishers
Charlottesville, Virginia
1996

Copyright © 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996
by
Michie,
a division of Reed Elsevier Inc.
and Reed Elsevier Properties Inc.

All rights reserved.

5203714

"Michie" and the Open Book and Gavel logo are trademarks of
Michie, a division of Reed Elsevier Inc.

Preface

This Cumulative Supplement to Volume 17 contains the general laws of a permanent nature enacted by the General Assembly through the 1996 Second Extra Session, which are within the scope of such volume, and brings to date the annotations included therein.

Amendments are inserted under the same section numbers appearing in the General Statutes, and new laws appear under the proper chapter headings.

Chapter analyses show all affected sections, except sections for which catchlines are carried for the purposes of notes only. An index to all statutes codified herein will appear in the Replacement Index Volumes.

A majority of the Session Laws are made effective upon ratification, but a few provide for stated effective dates. If the Session Law makes no provision for an effective date, the law becomes effective under G.S. 120-20 “from and after 30 days after the adjournment of the session” in which passed.

Beginning with the opinions issued by the North Carolina Attorney General on July 1, 1969, any opinion which construes a specific statute is cited as an annotation to that statute. For a copy of an opinion or of its headnotes write the Attorney General, P.O. Box 629, Raleigh, N.C. 27602.

The members of the North Carolina Bar are requested to communicate any defects they may find in the General Statutes or in this Cumulative Supplement and any suggestions they may have for improving the General Statutes, to the Department of Justice of the State of North Carolina, or to Michie, Law Publishers, Charlottesville, Virginia.

Digitized by the Internet Archive
in 2026 with funding from
State Library of North Carolina

https://archive.org/details/generalstatuteso17nort_5

User's Guide

In order to assist both the legal profession and the layperson in obtaining the maximum benefit from the North Carolina General Statutes, a User's Guide has been included in Volume 1. This guide contains comments and information on the many features found within the General Statutes intended to increase the usefulness of this set of laws to the user. See the main volume for the complete User's Guide.

Scope of Volume

Statutes:

Permanent portions of the General Laws enacted by the General Assembly through the 1996 Second Extra Session affecting Chapters 117 through 129 of the General Statutes.

Annotations:

Sources of the annotations to the General Statutes appearing in this volume are:

North Carolina Reports through Volume 343, p. 303.
North Carolina Court of Appeals Reports through Volume 121, p. 513.
South Eastern Reporter 2nd Series through Volume 470, p. 425.
Federal Reporter 3rd Series through Volume 83, p. 1423.
Federal Supplement through Volume 924, p. 224.
Federal Rules Decisions through Volume 165, p. 700.
Bankruptcy Reports through Volume 195, p. 823.
Supreme Court Reporter through Volume 116, p. 1711.
North Carolina Law Review through Volume 74, p. 1319.
Wake Forest Law Review through Volume 30, p. 1008.
Campbell Law Review through Volume 18, p. 201.
Duke Law Journal through Volume 45, p. 1088.
North Carolina Central Law Journal through Volume 25, p. 100.
Opinions of the Attorney General.

The General Statutes of North Carolina
1996 Cumulative Supplement

VOLUME 17

Chapter 119.
Gasoline and Oil Inspection and Regulation.

Article 2A.

Regulation of Rerefined or Reprocessed Oil.

Sec.
119-13.1. Definitions.
119-13.2. Labels required on sealed containers; oil to meet minimum specifications.
119-13.3. Violation a misdemeanor.

Article 3.

Gasoline and Oil Inspection.

119-15. Definitions that apply to Article.
Sec.
119-16, 119-16.1. [Repealed.]
119-16.2. Application for license.
119-18. Inspection tax and distribution of the tax proceeds.
119-19. Authority of Secretary to cancel a license.
119-22. [Repealed.]
119-39.1. Civil Penalties.
119-40, 119-41. [Repealed.]
119-44. [Repealed.]

ARTICLE 2A.

Regulation of Rerefined or Reprocessed Oil.

§ 119-13.1. Definitions.

As used in this Article:

(1) "Lubricating oil" means any oil classified for the use in an internal combustion engine, hydraulic system, gear box, differential, or wheel bearings.

(1a) "Recycled oil" means any oil prepared from used oil for energy recovery or reuse as a petroleum product by reclaiming, reprocessing, rerefining, or other means that use properly treated used oil as a substitute for petroleum products.

(1b) "Rerefined oil" means used oil that is refined to remove the physical and chemical contaminants acquired through use and that, by itself or when blended with new lubricating oil or additives, meets applicable American Petroleum Institute (A.P.I.) service classifications.

(2) "Specifications" means the minimum chemical properties or analysis as determined by the American Society for Testing Materials (A.S.T.M.) test methods using current ASTM analytical procedures.

(3) "Used oil" means any oil that has been refined from crude or synthetic oil and, as a result of use, storage, or handling

becomes unsuitable for its original purpose due to the loss of its original properties or the presence of impurities, but that may be rerefined for further use. (1953, c. 1137; 1979, c. 158, s. 1; 1995, c. 516, s. 1.)

Editor's Note. — The definitions in this section were placed in alphabetical order at the direction of the Revisor of Statutes.

Effect of Amendments. — The 1995 amendment, effective October 1, 1995, and applicable to violations occurring on or after that date, redesignated former subdivision (1) as present subdivision (1a); added present subdivision (1); rewrote subdivision (1a); and added subdivisions (1b) and (3).

§ 119-13.2. Labels required on sealed containers; oil to meet minimum specifications.

(a) It shall be unlawful to offer for sale or sell or deliver in this State previously used oil that has not been rerefined or recycled oil that has not been rerefined, as defined in G.S. 119-13.1, in a sealed container unless this container be labeled or bear a label on which shall be expressed the brand or trade name of the oil and the words "made from previously used lubricating oil"; the name and address of the person, firm, or corporation that has rerefined or reprocessed said oil or placed it in the container; the Society of Automotive Engineers (S.A.E.) viscosity grade; the net contents of the container expressed in U.S. liquid measure of quarts, gallons, or pints; which label has been registered and approved by the Gasoline and Oil Inspection Division of the Department of Agriculture; and that the oil in each container shall meet the minimum specifications. The Gasoline and Oil Inspection Board shall adopt minimum quality specifications, the measurement of which shall be accomplished using current A.S.T.M. analytical procedures.

(b) A person may represent a product made in whole or in part from rerefined oil to be substantially equivalent to a product made from virgin oil for a particular end use if the product conforms with the applicable American Petroleum Institute (A.P.I.) service classifications. (1953, c. 1137; 1979, c. 158, s. 2; 1995, c. 516, s. 2.)

Effect of Amendments. — The 1995 amendment, effective October 1, 1995, and applicable to violations occurring on or after that date, added the subsection designation (a); in subsection (a) substituted "previously used oil that has not been rerefined or recycled oil that has not been rerefined, as defined in G.S. 119-13.1" for "rerefined or reprocessed oil, as hereinbefore defined", "that" for "who" following "corporation", and "grade" for "number" following "viscosity"; and added subsection (b).

§ 119-13.3. Violation a misdemeanor.

Any person, firm, or corporation violating any of the provisions of this Article shall for each offense be guilty of a Class 1 misdemeanor. For a second or subsequent offense, the person shall also be enjoined from selling or distributing previously used oil for not less than one year nor more than five years. (1953, c. 1137; 1993, c. 539, s. 901; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 516, s. 3.)

Effect of Amendments. — The 1995 amendment, effective October 1, 1995, and applicable to violations occurring on or after that date, added the second sentence.

ARTICLE 3.

Gasoline and Oil Inspection.

§ 119-15. Definitions that apply to Article.

The following definitions apply in this Article:

(1) Alternative fuel. — Defined in G.S. 105-449.130.

(2) Gasoline. — Defined in G.S. 105-449.60.

(3) Kerosene. — Petroleum oil that is free from water, glue, and suspended matter and that meets the specifications and standards adopted by the Gasoline and Oil Inspection Board.

(3a) Kerosene distributor. — A person who acquires kerosene from any of the following for subsequent sale:

a. A supplier licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes.

b. A kerosene supplier.

c. Another kerosene distributor.

(3b) Kerosene supplier. — A person who is not required to be licensed as a supplier under Part 2 of Article 36C of Chapter 105 of the General Statutes and who maintains storage facilities for kerosene to be used to fuel an airplane.

(4) Motor fuel. — Defined in G.S. 105-449.60.

(5) Person. — Defined in G.S. 105-229.90. (1937, c. 425, s. 2; 1995, c. 390, s. 19; 1995 (Reg. Sess., 1996), c. 647, s. 53.)

Editor's Note. — The subdivision designations (3a) and (3b) were assigned by the Revisor of Statutes, those definitions having been enacted as subdivisions (4) and (5), respectively.

Effect of Amendments. — The 1995 amendment, effective January 1, 1996, rewrote this section.

The 1995 (Reg. Sess., 1996) amendment, effective July 1, 1996, added present subdivisions (4) [3a] and (5) [3b], and renumbered subdivisions (4) and (5) as subdivisions (6) and (7).

§§ 119-16, 119-16.1: Repealed by Session Laws 1995, c. 390, ss. 20 and 21.

§ 119-16.2. Application for license.

(a) When Required. — A person may not engage in business as a kerosene supplier unless the person has a kerosene supplier license issued under this section. A kerosene distributor is required to have a kerosene distributor license only if the distributor imports kerosene. Other kerosene distributors may elect to have a kerosene distributor license. A licensed kerosene distributor that buys kerosene from a supplier licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes has the right to defer payment of the inspection tax until the supplier is required to remit the tax to this State or another state. A licensed kerosene distributor that pays the tax due a supplier licensed under that Part by the date the supplier must pay the tax to the State may deduct from the amount due a discount in the amount set in G.S. 105-449.93.

(b) Application. — To obtain a license under this section, an applicant must file an application with the Secretary of Revenue on a form provided by the Secretary and file with the Secretary a bond in the amount required by the Secretary, not to exceed twenty thousand dollars ($20,000). An applicant must give the Secretary the same information the applicant would be required to give under Part 2 of Article 36C of Chapter 105 of the General Statutes if the applicant were applying for a license under that Part.

(c) General. — A bond filed under this section must be conditioned on compliance with this Article, be payable to the State, and be in the form required by the Secretary. A license issued under this section remains in effect until surrendered or canceled, must be displayed in the same manner as a license issued under Part 2 of Article 36C of Chapter 105 of the General Statutes, and is subject to the same restrictions as a license issued under that Part. A person who fails to comply with this section is guilty of a Class 1 misdemeanor. (1967, c. 1110, s. 12; 1973, c. 476, s. 193; 1993, c. 539, s. 902; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 745, s. 29; 1995, c. 390, s. 22; 1995 (Reg. Sess., 1996), c. 647, s. 54.)

Effect of Amendments. — The 1995 amendment, effective January 1, 1996, substituted "is licensed as a supplier or a distributor under Part 2 of Article 36C of Chapter 105 of the General Statutes or has" for "has either a license issued under G.S. 105-433 or" in the first sentence, and in the third and fifth sentences substituted "Part 2 of Article 36C of Chapter 105 of the General Statutes" for "G.S. 105-433", and substituted "Part" for "section" at the end of both sentences.

The 1995 (Reg. Sess., 1996) amendment, effective July 1, 1996, added the subsection designation (a); in subsection (a), added the subcatchline "When Required", in the first sentence, substituted "supplier" for "distributor", and deleted "is licensed as a supplier or a distributor under Part 2 of Article 36C of Chapter 105 of the General Statutes or" following "unless the person", and added the second, third, fourth and fifth sentences; added the subsection designations (b) and (c); added the subcatchline "Application" to subsection (b); and added the subcatchline "General" to subsection (c).

§ 119-18. Inspection tax and distribution of the tax proceeds.

(a) Tax. — An inspection tax of one fourth of one cent (¼ of 1¢) per gallon is levied upon all of the following fuel, regardless of whether the fuel is exempt from the per-gallon excise tax imposed by Article 36C or 36D of Chapter 105 of the General Statutes:

(1) Motor fuel that is not dyed diesel fuel.
(2) Dyed diesel fuel used to operate a highway vehicle.
(3) Alternative fuel used to operate a highway vehicle.
(4) Kerosene.

The inspection tax on motor fuel is due and payable to the Secretary of Revenue at the same time that the per gallon excise tax on motor fuel is due and payable under Article 36C of Chapter 105 of the General Statutes. The inspection tax on alternative fuel is due and payable to the Secretary of Revenue at the same time that the excise tax on alternative fuel is due and payable under Article 36D of Chapter 105 of the General Statutes. The inspection tax on kerosene is payable monthly to the Secretary by a supplier that is licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes and by a kerosene supplier. A monthly report is due by the 22nd of each month and applies to kerosene sold during the preceding month by a supplier licensed under that Part and to kerosene received during the preceding month by a kerosene supplier.

(b) Proceeds. — The proceeds of the inspection tax levied by this section shall be applied first to the costs of administering this Article and Subchapter V of Chapter 105 of the General Statutes. The remainder of the proceeds shall be credited on a monthly basis to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund and the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund. If the amount of revenue in the Noncommercial Fund at the end of a month is at least five million dollars ($5,000,000), one-half of the remainder of the proceeds shall be credited to the Noncommercial Fund and one-half of the remainder of the proceeds shall be credited to the Commercial Fund. If the amount of revenue in the Noncommercial Fund at the end of a month is less than this threshold amount, all of the remainder of the proceeds shall be credited to the Noncommercial Fund.

(c) No Local Tax. — No county, city, or town shall impose any inspection charge, tax, or fee, in the nature of the charge prescribed by this section, upon kerosene and motor fuel. (1917, c. 166, s. 4; C.S., s. 4856; 1933, c. 544, s. 5; 1937, c. 425, s. 5; 1967, c. 1110, s. 12; 1973, c. 476, s. 193; 1985, c. 602, s. 2; 1991, c. 636, s. 12; 1991 (Reg. Sess., 1992), c. 913, s. 12; 1993, c. 402, s. 8; 1995, c. 390, s. 23; 1995 (Reg. Sess., 1996), c. 647, s. 55.)

Effect of Amendments. — The 1995 amendment, effective January 1, 1996, in subsection (a) substituted "motor fuel, and alternative fuel" for "and motor fuel" in the first sentence, substituted "Article 36C" for "Articles 36 and 36A" in the second sentence, and added the third sentence.

The 1995 (Reg. Sess., 1996) amendment, effective July 1, 1996, in subsection (a), substituted "of the following fuel, regardless of whether the fuel is exempt from the per-gallon excise tax imposed by Article 36C or 36D of Chapter 105 of the General Statutes" for "kerosene, motor fuel, and alternative fuel", added subdivisions (a)(1), (a)(2), (a)(3), and (a)(4), and made a related change, in the second paragraph, in the third sentence, substituted "supplier that is licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes and by a kerosene supplier" for "distributor required to be licensed under G.S. 119-16.2", and in the last sentence, deleted "by a distributor required to be licensed under G.S. 119-16.2" following "A monthly report", substituted "22nd" for "20th", added "to kerosene sold during the preceding month by a supplier licensed under that Part and", and substituted "during the preceding month by a kerosene supplier" for "by the distributor during the preceding month."

§ 119-19. Authority of Secretary to cancel a license.

The Secretary of Revenue may cancel a license issued under G.S. 119-16.2 upon the written request of the license holder. The Secretary may summarily cancel a license issued under G.S. 119-16.2 or Article 36C or 36D of Chapter 105 of the General Statutes when the Secretary finds that the license holder is incurring liability for the tax imposed by this Article after failing to pay a tax when due under this Article. The Secretary may cancel the license of a license holder who files a false report under this Article or fails to file a report required under this Article after holding a hearing on whether the license should be cancelled.

The Secretary must send a person whose license is summarily cancelled a notice of the cancellation and must give the person an opportunity to have a hearing on the cancellation within 10 days after the cancellation. The Secretary must give a person whose license may be cancelled after a hearing at least 10 days' written notice of the date, time, and place of the hearing. A notice of a summary license cancellation and a notice of hearing must be sent by registered mail to the last known address of the license holder.

When the Secretary cancels a license and the license holder has paid all taxes and penalties due under this Article, the Secretary must either return to the license holder the bond filed by the license holder or notify the person liable on the bond and the license holder that the person is released from liability on the bond. (1933, c. 544, s. 10; 1967, c. 1110, s. 12; 1973, c. 476, s. 193; 1995, c. 390, s. 24.)

Effect of Amendments. — The 1995 amendment, effective January 1, 1996, rewrote the catchline of this section, which formerly read "Failure to report or pay tax; cancellation of license", and rewrote the text of this section.

§ 119-22: Repealed by Session Laws 1995, c. 390, s. 25, effective January 1, 1996.

§ 119-39.1. Civil Penalties.

The Commissioner of Agriculture may assess a civil penalty of not more than five thousand dollars ($5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation. (1995, c. 516, s. 4.)

Editor's Note. — Session Laws 1995, c. 516, s. 17, provides that this section is effective October 1, 1995, and is applicable to violations occurring on or after that date.

§§ 119-40, 119-41: Repealed by Session Laws 1995 (Regular Session, 1996), c. 647, s. 56, effective July 1, 1996.

§ 119-44: Repealed by Session Laws 1995 (Regular Session, 1996), c. 647, s. 56, effective July 1, 1996.

Chapter 120.

General Assembly.

Article 1.

Apportionment of Members; Compensation and Allowances.

Sec.
120-2.2. Dividing precincts in Senate and House apportionment acts restricted.
120-3. Pay of members and officers of the General Assembly.
120-3.1. Subsistence and travel allowances for members of the General Assembly.

Article 1A.

Legislative Retirement System.

120-4.22A. Post-retirement increases in allowances.
120-4.31. Internal Revenue Code compliance.

Article 2.

Duty and Privilege of Members.

120-6.1. (Effective January 1, 1997, contingent on approval of proposed constitutional amendment) Request that reconvened session not be held.

Article 6.

Acts and Journals.

120-20. (Effective January 1, 1997, contingent on approval of proposed constitutional amendment) When acts take effect.
120-29.1. (Effective January 1, 1997, contingent on approval of proposed constitutional amendment) Approval of bills.

Article 6A.1.

Submission of Acts.

120-30.9B. Statewide statutes; State Board of Elections.
120-30.9C. (Effective January 1, 1997, contingent on approval of constitutional amendment) The judicial system; Administrative Office of the Courts.

Sec.
120-30.9E. (Effective January 1, 1997, contingent on approval of constitutional amendment) Counties; County Attorney.
120-30.9F. (Effective January 1, 1997, contingent on approval of constitutional amendment) Municipalities; municipal attorney.
120-30.9G. School Administrative Units; State Board of Education; Local Boards of Education Attorney.

Article 6D.

Local Government Fiscal Information Act.

120-30.45. Fiscal note on legislation.
120-30.49. Compiling federal mandates; annual report.

Article 7.

Legislative Services Commission.

120-32.01. Information to be supplied.
120-32.1. Use and maintenance of buildings and grounds.
120-33. (Effective January 1, 1997, contingent on approval of constitutional amendment) Duties of enrolling clerk.
120-34. Printing of session laws.

Article 7A.

Fiscal Research Division.

120-36.6. Legislative Fiscal Research staff participation.
120-36.8. Certification of legislation required by federal law.

Article 8.

Elected Officers.

120-37. Elected officers; salaries; staff.

Article 11.

Legislative Intern Program.

120-56. Legislative Intern Program Council created.

Article 12A.

Joint Legislative Utility Review Committee.

120-70.2. (For applicability, see note) Appointment of members and organization.

Article 12C.

Joint Select Committee on Low-Level Radioactive Waste.

Sec.
120-70.36. Staffing.

Article 12D.

Environmental Review Commission.

120-70.46. Staffing.

Article 12E.

Joint Legislative Highway [Transportation] Oversight Committee.

120-70.52. Organization of Committee.

Article 12F.

Joint Legislative Commission on Seafood and Aquaculture.

120-70.65. Staffing.

Article 12H.

Joint Legislative Education Oversight Committee.

120-70.82. Organization of Committee.

Article 12I.

Joint Legislative Oversight Committee on Early Childhood Education and Development Initiatives.

120-70.90 through 120-70.92. [Repealed.]

Article 12J.

Joint Legislative Corrections Oversight Committee.

120-70.95. Organization of Committee.

Article 12K.

Joint Legislative Administrative Procedure Oversight Committee.

120-70.100. Creation and membership of Joint Legislative Administrative Procedure Oversight Committee.
120-70.101. Purpose and powers of Committee.
120-70.102. Organization of Committee.
120-70.103. Exercise of duty to maintain a notebook of approved rules.

Article 13.

Joint Legislative Commission on Governmental Operations.

Sec.
120-74. Appointment of members; terms of office.
120-76. Powers and duties of the Commission.

Article 14.

Legislative Ethics Act.

Part 3. Legislative Ethics Committee.

120-99. (For applicability, see note) Creation; composition.
120-100. Term of office; vacancies.
120-101. Quorum; expenses of members.

Article 16.

Legislative Appointments to Boards and Commissions.

120-123. Service by members of the General Assembly on certain boards and commissions.

Article 17.

Confidentiality of Legislative Communications.

120-131.1. Requests from legislative employees for assistance in the preparation of fiscal notes.
120-133. (Effective January 1, 1997, contingent on approval of constitutional amendment) Redistricting communications.

Article 18A.

Review of Proposals to License New Occupations and Professions.

120-149.3. Assessment of new licensing boards.

Article 19.

Commission on Agriculture, Forestry, and Seafood Awareness.

120-150. Creation; appointment of members.

Article 21.

The North Carolina Study Commission on Aging.

120-186.1. Commission; Alzheimer's Subcommittee, Long-Term

Sec.
Care Subcommittee, and other subcommittees.

Article 22.

The Public Health Study Commission.

120-196. (See editor's note) Commission duties.

Article 23.

The Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services.

120-204. Commission created; purpose.
Sec.
120-205. Commission membership; meetings; terms; vacancies.
120-206. Powers; per diem, subsistence, and travel allowances.
120-207. Reporting.
120-208 through 120-212. [Reserved.]

ARTICLE 1.

Apportionment of Members; Compensation and Allowances.

§ 120-2.2. Dividing precincts in Senate and House apportionment acts restricted.

(a) An act of the General Assembly that apportions Senate or House districts after the return of a census may not divide precincts unless an act that apportioned Senate or House districts after the return of that same census has been rejected by the United States Department of Justice or the District Court for the District of Columbia under section 5 of the Voting Rights Act of 1965.

(b) If an act that apportioned Senate or House districts has been rejected by the United States Department of Justice or the District Court for the District of Columbia under section 5 of the Voting Rights Act of 1965, then a subsequent act may only divide the minimum number of precincts necessary to obtain approval of the act under section 5 of the Voting Rights Act of 1965.

(c) This section does not prevent the General Assembly from taking any action to comply with federal law or the Constitution of the United States. (1995, c. 355, s. 1; c. 509, s. 135.2(h).)

Editor's Note. — This section was originally enacted by Session Laws 1995, c. 355, s. 1, as G.S. 120-2.1, effective June 29, 1995. Session Laws 1995, c. 590, s. 135.2(h), recodified this section as G.S. 120-2.2, effective July 29, 1995.

§ 120-3. Pay of members and officers of the General Assembly.

(a) The Speaker of the House shall be paid an annual salary of thirty-eight thousand one hundred fifty-one dollars ($38,151) payable monthly, and an expense allowance of one thousand four hundred thirteen dollars ($1,413) per month. The President Pro Tempore of the Senate shall be paid an annual salary of thirty-eight thousand one hundred fifty-one dollars ($38,151) payable monthly, and an expense allowance of one thousand four hundred thirteen dollars (1,413) per month. The Speaker Pro Tempore of the House shall be paid an annual salary of twenty-one thousand seven hundred thirty-nine dollars ($21,739) payable monthly, and an expense allowance of eight hundred thirty-six dollars (836.00) per month. The Deputy President Pro Tempore of the Senate shall be paid an annual salary of twenty-one thousand seven hundred thirty-nine dollars ($21,739) payable monthly, and an expense allowance of eight hundred thirty-six dollars ($836.00) per month. The majority and minority leaders in the House and the majority and minority leaders in the Senate shall be paid an annual salary of seventeen thousand forty-eight dollars ($17,048) payable monthly, and an expense allowance of six hundred sixty-six dollars ($666.00) per month.

(b) Every other member of the General Assembly shall receive increases in annual salary only to the extent of and in the amounts equal to the average increases received by employees of the State, effective upon convening of the next Regular Session of the General Assembly after enactment of these increased amounts, except no such increase is granted upon the convening of the 1997 Regular Session of the General Assembly. Accordingly, upon convening of the 1997 Regular Session of the General Assembly, every other member of the General Assembly shall be paid an annual salary of thirteen thousand nine hundred fifty-one dollars ($13,951) payable monthly, and an expense allowance of five hundred fifty-nine dollars ($559.00) per month.

(c) The salary and expense allowances provided in this section are in addition to any per diem compensation and any subsistence and travel allowance authorized by any other law with respect to any regular or extra session of the General Assembly, and service on any State board, agency, commission, standing committee and study commission. (1929, c. 2, s. 1; 1951, c. 23, s. 1; 1965, c. 917; c. 1157, s. 1; 1967, c. 1120; 1969, c. 1278, s. 1; 1971, c. 1200, s. 5; 1973, c. 1482, s. 1; 1977, 2nd Sess., c. 1249, ss. 1, 2; 1979, 2nd Sess., c. 1137, s. 9.1; 1983, c. 761, s. 203; 1983 (Reg. Sess., 1984), c. 1034, s. 209; 1985, c. 479, s. 208; 1985 (Reg. Sess., 1986), c. 1014, s. 29; 1987, c. 738, s. 15; c. 830, s. 70; 1987 (Reg. Sess., 1988), c. 1086, s. 9; 1989, c. 752, s. 26; 1991 (Reg. Sess., 1992), c. 900, s. 35; 1993, c. 321, s. 52; 1993 (Reg. Sess., 1994), c. 769, s. 7.5; 1995, c. 507, s. 7.8.)

Editor's Note. — Session Laws 1995, c. 358, s. 2(a), as amended by Session Laws 1995, c. 437, s. 1, and by Session Laws 1995, c. 467, s. 1, provides that the salaries established by Session Laws 1993, c. 769, s. 7.5, shall remain until July 28, 1995, at the level set by or under that section as of June 30, 1995; and that no State employee or officer may prior to July 28, 1995, receive a merit increase or annual increment.

Session Laws 1995, c. 507, s. 1.1, provides that that act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.12 is a severability clause.

Effect of Amendments. — The 1995 amendment, effective July 1, 1995, in subsection (b) added "except no such increase is granted upon the convening of the 1997 Regular Session of the General Assembly" in the first sentence, and substituted "1997" for "1995" in the second sentence.

§ 120-3.1. Subsistence and travel allowances for members of the General Assembly.

(a) In addition to compensation for their services, members of the General Assembly shall be paid the following allowances:

(1) A weekly travel allowance for each week or fraction thereof that the General Assembly is in regular or extra session. The amount of the weekly travel allowance shall be calculated for each member by multiplying the actual round-trip mileage from that member's home to the City of Raleigh by the rate per mile which is the business standard mileage rate set by the Internal Revenue Service in Rev. Proc. 93-51, December 27, 1993.

(2) A travel allowance at the rate which is the business standard mileage rate set by the Internal Revenue Service in Rev. Proc. 93-51, December 27, 1993, whenever the member travels, whether in or out of session, as a representative of the General Assembly or of its committees or commissions, with the approval of the Legislative Services Commission.

(3) A subsistence allowance for meals and lodging at a daily rate equal to the maximum per diem rate for federal employees traveling to Raleigh, North Carolina, as set out at 58 Federal Register 67959 (December 22, 1993), while the General Assembly is in session and, except as otherwise provided in this subdivision, while the General Assembly is not in session when, with the approval of the Speaker of the House of Representatives in the case of Representatives or the President Pro Tempore of the Senate in case of Senators, the member is:

a. Traveling as a representative of the General Assembly or of its committees or commissions, or

b. Otherwise in the service of the State.

A member who is authorized to travel, whether in or out of session, within the United States outside North Carolina, may elect to receive, in lieu of the amount provided in the preceding paragraph, a subsistence allowance of twenty-six dollars ($26.00) a day for meals, plus actual expenses for lodging when evidenced by a receipt satisfactory to the Legislative Services Officer, the latter not to exceed the maximum per diem rate for federal employees traveling to the same place, as set out at 58 Federal Register 67950-67964 (December 22, 1993) and at 59 Federal Register 23702-23709 (May 6, 1994).

(4) A member may be reimbursed for registration fees as permitted by the Legislative Services Commission.

(b) Payment of travel and subsistence allowances shall be made to members of the General Assembly only after certification by the claimant as to the correctness thereof on forms prescribed by the Legislative Services Commission. Claims for travel and subsistence payments shall be paid at such times as may be prescribed by the Legislative Services Commission.

(c) When the General Assembly by joint action of the two houses adjourns to a day certain, which day is more than three days after the date of adjournment, the period between the date of adjournment and the date of reconvening shall for the purposes of this section be deemed to be a period when the General Assembly is not in session, and no member shall be entitled to subsistence and travel allowance during that period, except under circumstances which would entitle him to subsistence and travel allowance when the General Assembly is not in session.

(d) Repealed by Session Laws 1989 (Regular Session 1990), c. 1066, s. 24(a), effective January 30, 1991. (1957, c. 8; 1959, c. 939; 1961, c. 889; 1965, c. 86, s. 1; 1969, c. 1257, s. 1; 1971, c. 1200, ss. 1-4; 1973, c. 1482, s. 2; 1977, 2nd Sess., c. 1249, ss. 3, 4; 1979, 2nd Sess., c. 1137, s. 30; 1983, c. 761, ss. 25, 26; 1983 (Reg. Sess., 1984), c. 1034, ss. 184, 186; 1985, c. 479, s. 206; 1985 (Reg. Sess., 1986), c. 1014, s. 40(a); 1987 (Reg. Sess., 1988), c. 1086, s. 30(c); 1989, c. 117; 1989 (Reg. Sess., 1990), c. 1066, s. 24(a); 1991 (Reg. Sess., 1992), c. 900, s. 51; 1993, c. 321, ss. 24(b), (c); 1993 (Reg. Sess., 1994), c. 769, s. 7.28; 1996, 2nd Ex. Sess., c. 18, s. 8(b).)

Editor's Note. — Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — The 1996 Second Extra Session amendment, effective July 1, 1996, in subdivision (a)(3), inserted "of Representatives" in the introductory language, and substituted "Legislative Services Officer" for "Legislative Administrative Officer."

ARTICLE 1A.

Legislative Retirement System.

§ 120-4.22A. Post-retirement increases in allowances.

(a) Retired members and beneficiaries of the Retirement System shall receive post-retirement increases in allowances on the same basis as post-retirement increases in allowances are provided to retired members and beneficiaries of the Teachers' and State Employees' Retirement System.

(b) In accordance with subsection (a) of this section, from and after July 1, 1986, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1986, shall be increased by the same amount as provided to retired members and beneficiaries of the Teachers' and State Employees' Retirement System pursuant to the provisions of G.S. 135-5(ii) and (jj).

(c) In accordance with subsection (a) of this section, from and after July 1, 1987, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1987, shall be increased by the same amount as provided to retired members and beneficiaries of the Teachers' and State Employees' Retirement System pursuant to the provisions of G.S. 135-5(ii) and (jj).

(d) In accordance with subsection (a) of this section, from and after July 1, 1988, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1988, shall be increased by the same amount as provided to retired members and beneficiaries of the Teachers' and State Employees'

Retirement System pursuant to the provisions of G.S. 135-5(*ll*) and (mm).

(e) In accordance with subsection (a) of this section, from and after July 1, 1989, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1989, shall be increased by the same amount as provided to retired members and beneficiaries of the Teachers' and State Employees' Retirement System pursuant to the provisions of G.S. 135-5(*ll*) and (mm).

(f) In accordance with subsection (a) of this section, from and after July 1, 1990, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1990, shall be increased by the same amount as provided to retired members and beneficiaries of the Teachers' and State Employees' Retirement System pursuant to the provisions of G.S. 135-5(rr) and (ss).

(g) In accordance with subsection (a) of this section, from and after July 1, 1992, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1992, shall be increased by one and six-tenths percent (1.6%) of the allowance payable on July 1, 1992. Furthermore, from and after July 1, 1992, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 1992, but before June 30, 1992, shall be increased by a prorated amount of one and six-tenths percent (1.6%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 1992 and June 30, 1992.

(h) In accordance with subsection (a) of this section, from and after July 1, 1993, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1993, shall be increased by one and six-tenths percent (1.6%) of the allowance payable on January 1, 1993. Furthermore, from and after July 1, 1993, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 1993, but before June 30, 1993, shall be increased by a prorated amount of one and six-tenths percent (1.6%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 1993, and June 30, 1993.

(i) In accordance with subsection (a) of this section, from and after July 1, 1994, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1994, shall be increased by three and one-half percent (3.5%) of the allowance payable on January 1, 1994. Furthermore, from and after July 1, 1994, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 1994, but before June 30, 1994, shall be increased by a prorated amount of three and one-half percent (3.5%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 1994, and June 30, 1994.

(j) In accordance with subsection (a) of this section, from and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1995, shall be increased by two percent (2%) of the allowance payable on January 1, 1995. Furthermore, from and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 1995, but before June 30, 1995, shall be increased by a prorated amount of two percent (2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 1995, and June 30, 1995.

(k) In accordance with subsection (a) of this section, from and after September 1, 1996, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1996, shall be increased by four and four-tenths percent (4.4%) of the allowance payable on January 1, 1996. Furthermore, from and after September 1, 1996, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 1996, but before June 30, 1996, shall be increased by a prorated amount of four and four-tenths percent (4.4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 1996, and June 30, 1996. (1985 (Reg. Sess., 1986), c. 1014, s. 49(c); 1987, c. 738, s. 27(d); 1987 (Reg. Sess., 1988), c. 1086, s. 22(d); 1989, c. 752, s. 41(d); 1989 (Reg. Sess., 1990), c. 1077, s. 11; 1991 (Reg. Sess., 1992), c. 900, s. 53(d); 1993, c. 321, s. 74(a); 1993 (Reg. Sess., 1994), c. 769, s. 7.30(k); 1995, c. 507, s. 7.22(c); 1996, 2nd Ex. Sess., c. 18, s. 28.21(c).)

Editor's Note. —

Session Laws 1995, c. 507, s. 1.1, provides that that act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.12 is a severability clause.

Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — The 1995 amendment, effective July 1, 1995, added subsection (j).

The 1996 Second Extra Session amendment, effective July 1, 1996, added subsection (k).

§ 120-4.31. Internal Revenue Code compliance.

(a) Notwithstanding any other provisions of law to the contrary, compensation for any calendar year after 1988 in which employee or employer contributions are made and for which annual compensation is used for computing any benefit under this Article shall not exceed the higher of two hundred thousand dollars ($200,000) or the amount determined by the Commissioner of Internal Revenue as the limitation for calendar years after 1989; provided the imposition of the limitation shall not reduce a member's benefit below the amount determined as of December 31, 1988.

Effective January 1, 1996, the annual compensation of a member taken into account for determining all benefits provided under this Article shall not exceed one hundred fifty thousand dollars ($150,000), as adjusted pursuant to section 401(a)(17)(B) of the Internal Revenue Code and any regulations issued under the Code. However, with respect to a person who became a member of the Retirement System prior to January 1, 1996, the imposition of this limitation on compensation shall not reduce the amount of compensation which may be taken into account for determining the benefits of that member under this Article below the amount of compensation which would have been recognized under the provisions of this Article in effect on July 1, 1993.

(b) Notwithstanding any other provisions of law to the contrary, the annual benefit payable on behalf of a member shall, if necessary, be reduced to the extent required by Section 415(b) and (e) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury or his delegate pursuant to Section 415(d) of the Code. If a member is a participant under any qualified defined contributions plan that is required to be taken into account for the purposes of the limitation contained in Section 415 of the Internal Revenue Code, the annual benefit payable under this Article shall be reduced to the extent required by Section 415(e) prior to making any reduction under the defined contribution plan provided by the employer.

(c) On and after January 1, 1989, the retirement allowance of a member who has terminated employment shall begin no later than the later of April 1 of the calendar year following the calendar year that the member attains 70 ½ years of age or April 1 of the calendar year following the calendar year in which the member terminates employment.

(d) This subsection applies to distributions made on or after January 1, 1993. Notwithstanding any other provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee may elect, at the time and in the manner prescribed by the Plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. Provided, an eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net realized appreciation with respect to employer securities). Provided, an eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or an individual retirement annuity. Provided, a distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, or a court ordered equitable distribution of marital property, as provided under G.S. 50-20, whichever may be applicable, are distributees with regard to the interest of the spouse or former spouse. Provided further, a direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee. (1989, c. 276, s. 1; 1993, c. 531, s. 2; 1995, c. 361, s. 4.)

Effect of Amendments. — The 1995 amendment, effective January 1, 1996, added the second paragraph in subsection (a).

ARTICLE 2.

Duty and Privilege of Members.

§ 120-6.1. (Effective January 1, 1997, contingent on approval of proposed constitutional amendment) Request that reconvened session not be held.

(a) As provided by Section 22(7) of Article II of the Constitution of North Carolina, if within 30 days after adjournment, a bill is returned by the Governor with objections and veto message to that house in which it shall have originated, the Governor shall reconvene that session as provided by Section 5(11) of Article III of the Constitution for reconsideration of the bill, unless the Governor prior to reconvening the session receives written requests dated no earlier than 30 days after such adjournment, signed by a majority of the members of each house that a reconvened session to reconsider vetoed legislation is unnecessary.

(b) The form for the requests shall be:

"To the Governor:

A reconvened session to reconsider vetoed legislation is unnecessary.

This ________ day of ________, ________,

__________, Member of the [Senate] [House of Representatives]"

Petitions as they are received are public records and shall be maintained by the Office of the Governor. (1995, c. 20, s. 15.1.)

Editor's Note. — Session Laws 1995, c. 20, s. 17 provides that sections 1 through 16 of that act shall become effective only if the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1-2 are approved as provided by Session Laws 1995, c. 5, ss. 3-4, to be decided in the November, 1996, election, and if so approved, sections 1 through 16 shall become effective with respect to bills and joint resolutions passed in either house of the General Assembly on or after January 1, 1997.

ARTICLE 6.

Acts and Journals.

§ 120-20. (Effective January 1, 1997, contingent on approval of proposed constitutional amendment) When acts take effect.

Acts of the General Assembly shall be in force only from and after 60 days after the adjournment of the session in which they shall have passed, unless the commencement of the operation thereof be expressly otherwise directed. (1799, c. 527, P.R.; R.C., c. 52, s. 35; 1868-9, c. 270, s. 1; Code, s. 2862; Rev., s. 4417; C.S., s. 6105; 1995, c. 20, s. 3.)

For this section as in effect until January 1, 1997, contingent on approval of the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1 and 2, see the main pamphlet.

Editor's Note. — Session Laws 1995, c. 20, s. 17 provides that sections 1 through 16 of that act shall become effective only if the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1-2 are approved as provided by Session Laws 1995, c. 5, ss. 3-4, to be decided in the November, 1996, election, and if so approved, sections 1 through 16 shall become effective with respect to bills and joint resolutions passed in either house of the General Assembly on or after January 1, 1997.

Effect of Amendments. — The 1995 amendment, effective on or after January 1, 1997, if constitutional amendments proposed by 1995, c. 5. ss. 1-2 are approved, substituted "60 days" for "30 days".

§ 120-29.1. (Effective January 1, 1997, contingent on approval of proposed constitutional amendment) Approval of bills.

(a) If the Governor approves a bill, the Governor shall write upon the same, to the left of and below the signatures of the presiding officers of the two houses, the fact, date, and time of approval, as follows: "Approved ______.m. this ______ day of ______, ___" and shall sign the same as follows: "_______ Governor". The Governor shall then return the approved bill to the enrolling clerk.

(b) If any bill becomes law because of the failure of the Governor to take any action, it shall be the duty of the Governor to return the measure to the enrolling clerk, who shall sign the following certificate on the measure and deposit it with the Secretary of State: "This bill having been presented to the Governor for his signature on the ______ day of ______, ______ and the Governor having failed to approve it within the time prescribed by law, the same is hereby declared to have become a law.

This ______ day of ______, ______, _________ Enrolling Clerk".

(c) If the Governor returns any bill to the house of origin with his objections, the Governor shall write such objections on the measure or cause the objections to be attached to the measure. When any such bill becomes law after reconsideration of the two houses, the presiding officers shall, below the objections of the Governor, sign the following certificate: "Became law notwithstanding the objections of the Governor, ____.m. this _____ day of ____, ____". The second of them to sign shall fill in the time. The enrolling clerk shall deposit the measure with the Secretary of State. (1995, c. 20, s. 2.)

Editor's Note. — Session Laws 1995, c. 20, s. 17 provides that sections 1 through 16 of that act shall become effective only if the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1-2 are approved as provided by Session Laws 1995, c. 5, ss. 3-4, to be decided in the November, 1996, election, and if so approved, sections 1 through 16 shall become effective with respect to bills and joint resolutions passed in either house of the General Assembly on or after January 1, 1997.

The number of this section was assigned by the Revisor of Statutes, the number in Session Laws 1995, c. 20, s. 2 having been 120-29.2.

ARTICLE 6A.1.

Submission of Acts.

§ 120-30.9B. Statewide statutes; State Board of Elections.

The Executive Secretary-Director of the State Board of Elections shall submit to the Attorney General of the United States:

(1) **(Effective until January 1, 1997, contingent on approval of proposed constitutional amendment)** Within 30 days of ratification all acts of the General Assembly that amend, delete, add to, modify or repeal any provision of Chapter 163 of the General Statutes or any other statewide legislation, except relating to Chapter 7A of the General Statutes, which constitutes a "change affecting voting" under Section 5 of the Voting Rights Act of 1965; and

(1) **(Effective January 1, 1997, contingent on approval of proposed constitutional amendment)** Within 30 days of the time they become laws all acts of the General Assembly that amend, delete, add to, modify or repeal any provision of Chapter 163 of the General Statutes or any other statewide legislation, except relating to Chapter 7A of the General Statutes, which constitutes a "change affecting voting" under Section 5 of the Voting Rights Act of 1965; and

(2) Within 30 days all alterations of precinct boundaries under G.S. 163-132.2(c) in counties covered by Section 5 of the Voting Rights Act of 1965. (1985, c. 579, s. 1; 1989, c. 440, s. 4; 1995, c. 20, s. 4.)

Subdivision (1) Set Out Twice. — The first version of subdivision (1) set out above is effective until January 1, 1997, contingent on approval of proposed constitutional amendment. The second version of subdivision (1) set out above is effective January 1, 1997, contingent on approval of proposed constitutional amendment.

Editor's Note. — Session Laws 1995, c. 20, s. 17 provides that sections 1 through 16 of that act shall become effective only if the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1-2 are approved as provided by Session Laws 1995, c. 5, ss. 3-4, to be decided in the November, 1996, election, and if so approved, sections 1 through 16 shall become effective with respect to bills and joint resolutions passed in either house of the General Assembly on or after January 1, 1997.

Effect of Amendments. — The 1995 amendment, effective on or after January 1, 1997, if constitutional amendments proposed by 1995, c. 5. ss. 1-2 are approved, substituted "the time they become laws" for "ratification" in subdivision (1).

§ 120-30.9C. (Effective January 1, 1997, contingent on approval of constitutional amendment) The judicial system; Administrative Office of the Courts.

The Administrative Officer of the Courts shall submit to the Attorney General of the United States within 30 days of the time they become laws all acts of the General Assembly that amend,

§ 120-30.9C has a contingent effective date.

delete, add to, modify or repeal any provision of Chapter 7A of the General Statutes of North Carolina which constitutes a "change affecting voting" under Section 5 of the Voting Rights Act of 1965. (1985, c. 579, s. 1; 1995, c. 20, s. 5.)

For this section as in effect until January 1, 1997, contingent on approval of the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1 and 2, see the main pamphlet.

Editor's Note. — Session Laws 1995, c. 20, s. 17 provides that sections 1 through 16 of that act shall become effective only if the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1-2 are approved as provided by Session Laws 1995, c. 5, ss. 3-4, to be decided in the November, 1996, election, and if so approved, sections 1 through 16 shall become effective with respect to bills and joint resolutions passed in either house of the General Assembly on or after January 1, 1997.

Effect of Amendments. — The 1995 amendment, effective on or after January 1, 1997, if constitutional amendments proposed by 1995, c. 5. ss. 1-2 are approved, substituted "the time they become laws" for "ratification".

§ 120-30.9E. (Effective January 1, 1997, contingent on approval of constitutional amendment) Counties; County Attorney.

The County Attorney of any county covered by the Voting Rights Act of 1965 shall submit to the Attorney General of the United States within 30 days:

(1) Of the time they become laws, any local acts of the General Assembly; and

(2) Of adoption actions of the county board of commissioners, or the county board of elections or any other county agency which constitutes a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 in that county. (1985, c. 579, s. 1; 1995, c. 20, s. 6.)

For this section as in effect until January 1, 1997, contingent on approval of the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1 and 2, see the main pamphlet.

Editor's Note. — Session Laws 1995, c. 20, s. 17 provides that sections 1 through 16 of that act shall become effective only if the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1-2 are approved as provided by Session Laws 1995, c. 5, ss. 3-4, to be decided in the November, 1996, election, and if so approved, sections 1 through 16 shall become effective with respect to bills and joint resolutions passed in either house of the General Assembly on or after January 1, 1997.

Effect of Amendments. — The 1995 amendment, effective on or after January 1, 1997, if constitutional amendments proposed by 1995, c. 5. ss. 1-2 are approved, from the end of the introductory language deleted "of ratification or adoption any local acts of the General Assembly,"; added the subdivision (1) and (2) designations; added subdivision (1); and added "Of adoption" at the beginning of subdivision (2).

§ 120-30.9F. (Effective January 1, 1997, contingent on approval of constitutional amendment) Municipalities; municipal attorney.

The municipal attorney of any municipality covered by the Voting Rights Act of 1965 shall submit to the Attorney General of the United States within 30 days:

(1) Of the time they become laws, any local acts of the General Assembly; and

(2) Of adoption actions of the municipal governing body or municipal board of elections or any other municipal agency which constitutes a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 in that municipality; provided that, if required or allowed by regulations or practices of the United States Department of Justice, a municipal attorney may delay submission of any annexation ordinance or group of ordinances until all previously submitted annexation ordinances have been precleared or otherwise received final disposition. (1985, c. 579, s. 1; 1989, c. 598, s. 4; 1995, c. 20, s. 7.)

For this section as in effect until January 1, 1997, contingent on approval of the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1 and 2, see the main pamphlet.

Editor's Note. — Session Laws 1995, c. 20, s. 17 provides that sections 1 through 16 of that act shall become effective only if the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1-2 are approved as provided by Session Laws 1995, c. 5, ss. 3-4, to be decided in the November, 1996, election, and if so approved, sections 1 through 16 shall become effective with respect to bills and joint resolutions passed in either house of the General Assembly on or after January 1, 1997.

Effect of Amendments. — The 1995 amendment, effective on or after January 1, 1997, if constitutional amendments proposed by 1995, c. 5. ss. 1-2 are approved, from the end of the introductory language deleted "of ratification or adoption any local acts of the General Assembly,"; added the subdivision (1) and (2) designations; added subdivision (1); and added "Of adoption" at the beginning of subdivision (2).

§ 120-30.9G. School Administrative Units; State Board of Education; Local Boards of Education Attorney.

(a) The State Board of Education shall submit to the Attorney General of the United States within 30 days any rules, policies, procedures, or actions taken pursuant to G.S. 115C-64.4 which could result in the appointment of a caretaker administrator or board to perform any of the powers and duties of a local board of education where that school administrative unit is covered by the Voting Rights Act of 1965.

(b) **(Effective until January 1, 1997, contingent on approval of constitutional amendment)** The attorney for any local board of education where that school administrative unit is covered by the Voting Rights Act of 1965 shall submit to the Attorney General of the United States within 30 days of ratification any local acts of the General Assembly, or actions of the local boards of education which constitutes a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 in that school administrative

§ 120-30.9(b) has a contingent effective date.

---

unit. If the change affecting voting is a merger of two or more school administrative units, the change shall be submitted jointly by the attorneys of the school administrative units involved, or by one of them by agreement of the attorneys involved.

(b) **(Effective January 1, 1997, contingent on approval of constitutional amendment)** The attorney for any local board of education where that school administrative unit is covered by the Voting Rights Act of 1965 shall submit to the Attorney General of the United States within 30 days:

(1) Of the time they become laws, any local acts of the General Assembly; and

(2) Of adoption actions of the local boards of education which constitutes a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 in that school administrative unit. If the change affecting voting is a merger of two or more school administrative units, the change shall be submitted jointly by the attorneys of the school administrative units involved, or by one of them by agreement of the attorneys involved. (1985, c. 579, s. 1; 1991, c. 529, s. 2; 1995, c. 20, s. 8.)

Subsection (b) Set Out Twice. — The first version of subsection (b) set out above is effective until January 1, 1997, contingent on approval of proposed constitutional amendment. The second version of subsection (b) set out above is effective January 1, 1997, contingent on approval of proposed constitutional amendment.

Editor's Note. —

Session Laws 1995, c. 20, s. 17 provides that sections 1 through 16 of that act shall become effective only if the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1-2 are approved as provided by Session Laws 1995, c. 5, ss. 3-4, to be decided in the November, 1996, election, and if so approved, sections 1 through 16 shall become effective with respect to bills and joint resolutions passed in either house of the General Assembly on or after January 1, 1997.

Effect of Amendments. — The 1995 amendment, effective on or after January 1, 1997, if constitutional amendments proposed by 1995, c. 5. ss. 1-2 are approved, from the end of the introductory language in subsection (b) deleted "of ratification or adoption any local acts of the General Assembly,"; added the subdivision (1) and (2) designations; added subdivision (1); and added "Of adoption" at the beginning of subdivision (2).

ARTICLE 6D.

Local Government Fiscal Information Act.

§ 120-30.45. Fiscal note on legislation.

(a) Every bill and resolution introduced in the General Assembly proposing any change in the law that could increase or decrease expenditures or revenues of a unit of local government shall have attached to it at the time of its consideration by the General Assembly a fiscal note prepared by the Fiscal Research Division. The fiscal note shall identify and estimate, for the first five fiscal years the proposed change would be in effect, all costs of the proposed legislation. If, after careful investigation, the Fiscal Research Division determines that no dollar estimate is possible, the note shall contain a statement to that effect, setting forth the reasons why no dollar amount can be given. No comment or opinion shall be included in the fiscal note with regard to the merits of the measure for which the note is prepared. However, technical and mechanical defects may be noted.

(b) The sponsor of each bill or resolution to which this section applies shall present a copy of the bill or resolution with the request for a fiscal note to the Fiscal Research Division. Upon receipt of the request and the copy of the bill or resolution, the Fiscal Research Division shall prepare the fiscal note as promptly as possible. The Fiscal Research Division shall prepare the fiscal note and transmit it to the sponsor within two weeks after the request is made, unless the sponsor agrees to an extension of time.

(c) This fiscal note shall be attached to the original of each proposed bill or resolution that is reported favorably by any committee of the General Assembly, but shall be separate from the bill or resolution and shall be clearly designated as a fiscal note. A fiscal note attached to a bill or resolution pursuant to this subsection is not a part of the bill or resolution and is not an expression of legislative intent proposed by the bill or resolution.

(d) If a committee of the General Assembly reports favorably a proposed bill or resolution with an amendment that proposes a change in the law that could increase or decrease expenditures or revenues of a unit of local government, the chair of the committee shall obtain from the Fiscal Research Division and attach to the amended bill or resolution a fiscal note as provided in this section.

(e) The Office of State Budget and Management, the Department of Revenue, the Department of the State Treasurer, the Department of the State Auditor, the State department most directly concerned, and, where appropriate, officials of units of local government, upon the request of Fiscal Research Division, shall assist the Fiscal Research Division in the preparation of the fiscal note.

(f) Copies of fiscal notes prepared by the Fiscal Research Division shall be furnished to the sponsor of the bill or resolution, the chairmen of the Local Government Committees, and the chairmen of the Appropriations, Finance, Rules, or the Senate Ways and Means Committees as appropriate. (1979, 2nd Sess., c. 1262, s. 5; 1995, c. 415, s. 6.)

Effect of Amendments. — The 1995 amendment, effective October 1, 1995, deleted the former first paragraph regarding preparation of a fiscal note by the Fiscal Research Division estimating the impact of any bill or resolution affecting the expenditures or revenues of units of local government; added subsections (a) through (d); and redesignated the former second and third paragraphs as subsections (e) and (f), respectively.

§ 120-30.49. Compiling federal mandates; annual report.

(a) The Fiscal Research Division shall, in consultation with the appropriate staff of the Research and Bill Drafting Divisions, make an annual report to the General Assembly pertaining to the fiscal effect of federal mandates on, or federal law on which is conditioned the receipt of federal funds by the State and units of local government. The annual report on federal mandates shall include the following:

(1) A listing of federal laws that require the State and any unit of local government, including a county, city, school administrative unit, or other local entity funded by or through a unit of local government to carry out additional or modified responsibilities;

(2) An estimate of the amount of any increase or decrease in the costs to the State and units of local government in providing or delivering public services required by federal law that are funded in whole or in part by the State or units of local government; and

(3) A listing of any other federal actions directly affecting the expenditures or revenues of the State and units of local government.

(b) The Office of State Budget and Management shall assist the Fiscal Research Division in the preparation of the annual report on federal mandates upon the request of the Division. Each State department, agency, or institution shall cooperate fully with the Fiscal Research Division in compiling the annual report on federal mandates and shall supply information to the Division in accordance with G.S. 120-32.01. The North Carolina Association of County Commissioners, the North Carolina League of Municipalities, and units of local government shall cooperate with the Fiscal Research Division in compiling the annual report on federal mandates, as requested, by supplying information relevant to the expenditures or revenues of units of local government.

(c) Copies of the annual report on federal mandates to the State and units of local government shall be provided to members of the General Assembly and to the Governor, the Office of State Budget and Management, the North Carolina Association of County Commissioners, and the North Carolina League of Municipalities. (1995, c. 415, s. 7.)

Editor's Note. — Session Laws 1995, c. 415, s. 9, made this section effective October 1, 1995.

ARTICLE 7.

Legislative Services Commission.

§ 120-32. Commission duties.

Editor's Note. —

Session Laws 1995, c. 507, s. 1.1, provides that that act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 7.12, provides: "The Legislative Administrative Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 1994-95 by two percent (2%). Nothing in this act limits any of the provisions of G.S. 120-32."

Session Laws 1995, c. 507, s. 28.9, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1995-97 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1995-97 biennium."

§ 120-32.01. Information to be supplied.

(a) Every State department, State agency, or State institution shall furnish the Legislative Services Office and the Research, Fiscal Research, and Bill Drafting Divisions any information or records requested by them. Except when accessibility is prohibited by a federal statute, federal regulation or State statute, every State department, State agency, or State institution shall give the Legislative Services Office and the Fiscal Research Division access to any data base or stored information maintained by computer, telecommunications, or other electronic data processing equipment, whether stored on tape, disk, or otherwise, and regardless of the medium for storage or transmission.

(b) Notwithstanding subsection (a) of this section, access to the State Personnel Management Information System by the Research and Bill Drafting Divisions shall only be through the Fiscal Research Division. (1983 (Reg. Sess., 1984), c. 1034, s. 177; 1996, 2nd Ex. Sess., c. 18, s. 8.2.)

Editor's Note. — Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — The 1996 Second Extra Session amendment, effective July 1, 1996, in subsection (a) substituted "Services" for "Administrative," inserted "Legislative Services Office and the" preceding "Fiscal Research Division"; and deleted "by the Legislative Administrative Office and" following "State Personnel Management Information System" in subsection (b).

§ 120-32.1. Use and maintenance of buildings and grounds.

(a) The Legislative Services Commission shall:

(1) Establish policy for the use of the State legislative buildings and grounds;

(2) Maintain and care for the State legislative buildings and grounds, but the Commission may delegate the actual work of the maintenance of those buildings and grounds to the Department of Administration, which shall perform the work as delegated;

(3) Provide security for the State legislative buildings and grounds;

(4) Allocate space within the State legislative buildings and grounds; and

(5) Have the exclusive authority to assign parking space in the State legislative buildings and grounds.

(b) The Legislative Services Officer shall have posted the rules adopted by the Legislative Services Commission under the authority of this section in a conspicuous place in the State Legislative Building and the Legislative Office Building. The Legislative Services Officer shall have filed a copy of the rules, certified by the chairman of the Legislative Services Commission, in the office of the Secretary of State and in the office of the Clerk of the Superior Court of Wake County. When so posted and filed, these rules shall constitute notice to all persons of the existence and text of the rules. Any person, whether on his own behalf or for another, or acting as an agent or representative of any person, firm, corporation, partnership or association, who knowingly violates any of the rules adopted, posted and filed under the authority of this section is guilty of a Class 1 misdemeanor. Any person, firm, corporation, partnership or association who combines, confederates, conspires, aids, abets, solicits, urges, instigates, counsels, advises, encourages or procures another or others to knowingly violate any of the rules adopted, posted and filed under the authority of this section is guilty of a Class 1 misdemeanor.

(c) The Legislative Services Commission may cause to be removed at the owner's expense any vehicle parked in the State legislative buildings and grounds in violation of the rules of the Legislative Services Commission and may cause to be removed any vehicle parked in any State-owned parking space leased to an employee of the General Assembly where the vehicle is parked without the consent of the employee to whom the space is leased.

(d) For the purposes of this section, the term "State legislative buildings and grounds" means:

(1) At all times:
  a. The State Legislative Building;
  a1. The areas between the outer walls of the State Legislative Building and the near curbline of those sections of Jones, Wilmington, and Salisbury Streets which border land on which it is situated;
  a2. The area between the outer walls of the State Legislative Building and the far curbline of that section of Lane Street which borders the land on which it is situated;
  b. The Legislative Office Building and the areas between its outer walls and the near curbline of those sections of Lane and Salisbury Streets that border the land on which it is situated;
  c. Any State-owned parking lot which is leased to the General Assembly; and
  d. The bridge between the State Legislative Building and the State Governmental Mall.
(2) In addition, the surface area to the far curbline of those sections of Jones, Wilmington, and Salisbury Streets which border the land on which the State Legislative Building is situated:
  a. When the General Assembly is in regular or extra session; and
  b. On other days on which one or more standing committees of either or both houses of the General Assembly are meeting and the Legislative Services Officer determines that additional parking is needed for the functioning of the General Assembly and files notice of the committee's or committees' meetings and his finding that additional parking is needed in the office of the Secretary of State and that of Clerk of the Superior Court of Wake County. (1973, c. 99, s. 1; 1975, c. 145, s. 3; 1981, c. 772, ss. 3, 4; 1991 (Reg. Sess., 1992), c. 1044, s. 7(a); 1993, c. 539, s. 913; 1994, Ex. Sess., c. 24, s. 14(c); 1996, 2nd Ex. Sess., c. 18, ss. 8.1, 8(c).)

Editor's Note. — Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations

Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — Session Laws 1996, Second Extra Session, c. 18, ss. 8(c) and 8.1, effective July 1, 1996, substituted "Legislative Services Officer" for "Legislative Administrative Officer" in subsection (b) and in subdivision (d)(2)b.; deleted "and the area" from the end of subdivision (d)(1)a.; added the subdivision (d)(1)a1. designation, and in subdivision (d)(1)a1. added "The areas," deleted "Lane" following "Wilmington," and substituted "it" for "the State Legislative Building"; added subdivision (d)(1)a2.; and deleted "Lane" following "Wilmington" in subdivision (d)(2).

§ 120-33. (Effective January 1, 1997, contingent on approval of constitutional amendment) Duties of enrolling clerk.

(a) All bills passed by the General Assembly shall be enrolled for ratification under the supervision of the enrolling clerk.

(b) Prior to enrolling any bill, the enrolling clerk shall substitute the corresponding Arabic numeral(s) for any date or section number of the General Statutes or of any act of the General Assembly which is written in words. The enrolled bill shall have the word "RATIFIED" following the bill number.

(c) All bills shall be typewritten and carefully proofread before enrollment.

(d) Upon ratification of an act or joint resolution, the enrolling clerk shall present one true ratified copy:

(1) To the Governor of any act except acts not required to be presented to the Governor under Article II, Section 22 of the Constitution of North Carolina; and

(2) To the Secretary of State of:

a. Acts not required to be presented to the Governor under Article II, Section 22 of the Constitution of North Carolina; and

b. Joint resolutions.

In the case of any bill presented to the Governor, the enrolling clerk shall write upon the bill the time and date presented to the Governor.

(d1) The enrolling clerk shall present to the Secretary of State one true ratified copy of:

(1) Any bill which has become law with the approval of the Governor as provided by G.S. 120-29.2(a);

(2) Any bill which has become law without the approval of the Governor as provided by G.S. 120-29.2(b); and

(3) Any bill which has become law notwithstanding the objections of the Governor, as provided by G.S. 120-29.2(c).

(d2) No bill required to be presented to the Governor under Article II, Section 22 of the Constitution of North Carolina shall be so presented until the time for moving a reconsideration shall have expired, unless expressly ordered by that house where such bill was ordered enrolled.

(e) Repealed by Session Laws 1995, c. 20, s. 1, effective January 1, 1997, contingent on approval of constitutional amendments.

(f) The enrolling clerk upon completion of duties after each session shall deposit the original bills and resolutions enrolled for ratification with the Secretary of State. (1969, c. 1184, s. 3; 1995, c. 20, s. 1.)

For this section as in effect until January 1, 1997, contingent on approval of the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1 and 2, see the main pamphlet.

Editor's Note. — Session Laws 1995, c. 20, s. 17 provides that sections 1 through 16 of that act shall become effective only if the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1-2 are approved as provided by Session Laws 1995, c. 5, ss. 3-4, to be decided in the November, 1996, election, and if so approved, sections 1 through 16 shall become effective with respect to bills and joint resolutions passed in either house of the General Assembly on or after January 1, 1997.

Effect of Amendments. — The 1995 amendment, effective on or after January 1, 1997, if constitutional amendments proposed by 1995, c. 5, ss. 1-2 are approved, added the last sentence in subsection (b); rewrote subsection (d); added subsections (d1) and (d2); deleted subsection (e) regarding the duty of the enrolling clerk to furnish each member of the General Assembly a conformed copy of all laws and joint resolutions showing the chapter number or joint resolution number; and in subsection (f) deleted "his" following "completion of" and deleted "by him" following "for ratification".

§ 120-34. Printing of session laws.

(a) **(Effective until January 1, 1997, contingent on approval of constitutional amendment)** The Legislative Services Commission shall publish all laws and joint resolutions passed at each session of the General Assembly. The laws and joint resolutions shall be kept separate and indexed separately. Each volume shall contain a certificate from the Secretary of State stating that the volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions on file in the Office of the Secretary of State. The Commission may publish the Session Laws and House and Senate Journals of extra and special sessions of the General Assembly in the same volume or volumes as those of regular sessions of the General Assembly. In printing, the signatures of the presiding officers shall be omitted.

(a) **(Effective January 1, 1997, contingent on approval of constitutional amendment)** The Legislative Services Commission shall publish all laws and joint resolutions passed at each session of the General Assembly. The laws and joint resolutions shall be kept separate and indexed separately. Each volume shall contain a certificate from the Secretary of State stating that the volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions on file in the Office of the Secretary of State. The Commission may publish the Session Laws and House and Senate Journals of extra and special sessions of the General Assembly in the same volume or volumes as those of regular sessions of the General Assembly. In printing, the signatures of the presiding officers and the Governor shall be omitted.

The enrolling clerk or the Legislative Services Office shall assign to each bill that becomes law a number in the order the bill became law, and the laws shall be printed in the Session Laws in that order. The number shall be preceded by the letters "S.L." followed by the calendar year it was ordered enrolled, followed by a hyphen and the sequential law number. Laws of Extra Sessions shall so indicate. In the case of any bill required to be presented to the Governor, and which became law, the Session Laws shall carry, below the date of ratification, editorial notes as to what time and what date the bill became law. In any case where the Governor has returned a bill to the General Assembly with objections, those objections shall be printed verbatim in the Session Laws, regardless of whether or not the bill became law notwithstanding the objections.

(b) All index references with respect to the session laws shall refer to the Chapter numbers of such laws in lieu of page numbers, and all index references to resolutions shall refer to the resolution numbers of the resolutions in lieu of page numbers, to the end that the indexes shall thereby be made consistent with the index to the General Statutes which refers to the section numbers and not to page numbers.

(c) There shall be printed not more than 2,500 volumes of the session laws and 600 volumes of the journals of each house of each session of the General Assembly, all of which shall be bound, and delivered to the Secretary of State for distribution by him under the provisions of G.S. 147-45, G.S. 147-46.1, G.S. 147-48 and other applicable statutes. (1969, c. 1184, s. 4; 1971, c. 685, s. 1; 1983 (Reg. Sess., 1984), c. 1034, s. 179; 1995, c. 20, s. 12.)

Subsection (a) Set Out Twice. — The first version of subsection (a) set out above is effective until January 1, 1997, contingent on approval of proposed constitutional amendment. The second version of subsection (a) set out above is effective January 1, 1997, contingent on approval of proposed constitutional amendment.

Editor's Note. — Session Laws 1995, c. 20, s. 17 provides that sections 1 through 16 of that act shall become effective only if the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1-2 are approved as provided by Session Laws 1995, c. 5, ss. 3-4, to be decided in the November, 1996, election, and if so approved, sections 1 through 16 shall become effective with respect to bills and joint resolutions passed in either house of the General Assembly on or after January 1, 1997.

Effect of Amendments. — The 1995 amendment, effective on or after January 1, 1997, if constitutional amendments proposed by 1995, c. 5, ss. 1-2 are approved, in subsection (a), in the last sentence of the first paragraph inserted "and the Governor" and added the second paragraph.

ARTICLE 7A.

Fiscal Research Division.

§ 120-36.6. Legislative Fiscal Research staff participation.

Legislative fiscal research staff members may attend all meetings of the Advisory Budget Commission and all hearings conducted by or for the Commission, and may accompany the Commission to inspect the facilities of the State. The Legislative Services Officer shall designate a member of the Fiscal Research staff, and a member of the General Research or Bill Drafting staff who may attend all meetings of the Board of Awards and Council of State, unless the Board or Council has voted to exclude them from the specific meeting, provided that no final action may be taken while they are so excluded. The Legislative Services Officer and the Director of Fiscal Research shall be notified of all such meetings, hearings and trips in the same manner and at the same time as notice is given to members of the Board, Commission or Council. The Legislative Services Officer and the Director of Fiscal Research shall be provided with a copy of all reports, memoranda, and other informational material which are distributed to the members of the Board, Commission, or Council; these reports, memoranda and materials shall be delivered to the Legislative Services Officer and the Director of Fiscal Research at the same time that they are distributed to the members of the Board, Commission, or Council. (1971, c. 659, s. 2; 1983 (Reg. Sess., 1984), c. 1034, s. 177.1; 1996, 2nd Ex. Sess., c. 18, s. 8(d).)

Editor's Note. —

Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — The 1996 Second Extra Session amendment, effective July 1, 1996, substituted "Legislative Services Officer" for "Legislative Administrative Officer" in the second sentence.

§ 120-36.8. Certification of legislation required by federal law.

(a) Every bill and resolution introduced in the General Assembly proposing any change in the law which purports to implement federal law or to be required or necessary for compliance with federal law, or on which is conditioned the receipt of federal funds shall have attached to it at the time of its consideration by the General Assembly a certification prepared by the Fiscal Research Division, in consultation with the Bill Drafting and Research Divisions, identifying the federal law requiring passage of the bill or resolution. The certification shall contain a statement setting forth the reasons why the bill or resolution is required by federal law. If the bill or resolution is not required by federal law or exceeds the requirements of federal law, then the certification shall state the reasons for that opinion. No comment or opinion shall be included in the certification with regard to the merits of the measure for which the certification is prepared. However, technical and mechanical defects may be noted.

(b) The sponsor of each bill or resolution to which this section applies shall present a copy of the bill or resolution with the request for certification to the Fiscal Research Division. Upon receipt of the request and the copy of the bill or resolution, the Fiscal Research Division shall consult with the Bill Drafting and Research Divisions, and may consult with the Office of State Budget and Management or any State agency on preparation of the certification as promptly as possible. The Fiscal Research Division shall prepare the certification and transmit it to the sponsor within two weeks after the request is made, unless the sponsor agrees to an extension of time.

(c) This certification shall be attached to the original of each proposed bill or resolution that is reported favorably by any committee of the General Assembly, but shall be separate from the bill or resolution and shall be clearly designated as a certification. A certification attached to a bill or resolution pursuant to this section is not a part of the bill or resolution and is not an expression of legislative intent proposed by the bill or resolution.

(d) If a committee of the General Assembly reports favorably a proposed bill or resolution with an amendment proposing any change in the law which purports to implement federal law or to be required or necessary for compliance with federal law, the chair of the committee shall obtain from the Fiscal Research Division and attach to the amended bill or resolution a certification as provided in this section. (1995, c. 415, s. 8.)

Editor's Note. — Session Laws 1995, c. 415, s. 9, made this section effective October 1, 1995.

ARTICLE 8.

Elected Officers.

§ 120-37. Elected officers; salaries; staff.

(a) At the convening of the first session of the General Assembly following each biennial election of members of the General Assembly, each house shall elect a principal clerk for a term of two years, subject to the condition that each officer shall serve at the pleasure of the house that elected him or her and until his or her successor is elected. The reading clerk and sergeant-at-arms of the Senate shall serve for terms of two years, subject to the condition that each serves at the pleasure of the Senate and until the officer's successor is elected. The reading clerk and sergeant-at-arms of the House of Representatives shall serve as provided in the rules of the House.

(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of two hundred forty-eight dollars ($248.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only.

(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of fifty-seven thousand five hundred fifty-nine dollars ($57,559) payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph.

(d) The Legislative Services Commission may authorize additional full-time staff employees of the office of each principal clerk. The Speaker may assign to the Principal Clerk of the House additional duties for the periods between sessions and during recesses of the General Assembly. The President pro tempore of the Senate may assign to the Principal Clerk of the Senate additional duties for the periods between sessions and during recesses of the General Assembly.

(e) The principal clerks and the sergeants-at-arms may, upon authorization of the Legislative Services Commission, employ temporary assistants to prepare for each legislative session, serve during the session, and perform necessary duties following adjournment.

(f) Following adjournment sine die of each session of the General Assembly, each principal clerk shall retain in his office for a period of two years every bill and resolution considered by but not enacted or adopted by his house, together with the calendar books and other records deemed worthy of retention. At the end of two years, these materials shall be turned over to the Division of Archives and History of the Department of Cultural Resources for ultimate retention or disposition. (1969, c. 1184, s. 7; 1977, 2nd Sess., c. 1278; 1979, c. 838, s. 82; 1979, 2nd Sess., c. 1137, s. 8; 1981, c. 1127, s. 9; 1983, c. 761, s. 197; 1983 (Reg. Sess., 1984), c. 1034, s. 208; c. 1116, s. 110; 1985, c. 479, ss. 205, 207; c. 757, s. 189; 1985 (Reg. Sess., 1986), c. 1014, ss. 30, 31; 1987, c. 738, ss. 16, 17; 1987 (Reg. Sess., 1988), c. 1086, ss. 10, 11; c. 1100, s. 16(c); 1989, c. 752, ss. 27, 28; 1991, c. 756, s. 34; 1991 (Reg. Sess., 1992), c. 900, ss. 36, 37; 1993, c. 321, ss. 53, 54; 1993 (Reg. Sess., 1994), c. 769, ss. 7.6, 7.7; 1995, c. 507, ss. 7.9, 7.10; 1996, 2nd Ex. Sess., c. 18, ss. 28.8, 28.7.)

Editor's Note. —

Session Laws 1995, c. 358, s. 2(a), as amended by Session Laws 1995, c. 437, s. 1, and by Session Laws 1995, c. 467, s. 1, provides that the salaries established by Session Laws 1993, c. 769, ss. 7.6 and 7.7, shall remain until July 28, 1995, at the level set by or under that section as of June 30, 1995; and that no State employee or officer may prior to July 28, 1995, receive a merit increase or annual increment.

Session Laws 1995, c. 507, s. 1.1, provides that that act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.12 is a severability clause.

Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — Session Laws 1995, c. 507, ss. 7.9 and 7.10, effective July 1, 1995, substituted "two hundred thirty-seven dollars ($237.00)" for "two hundred thirty-two dollars ($232.00)" in the first sentence of subsection (b); and substituted "fifty-five thousand eighty dollars ($55,080)" for "fifty-four thousand dollars ($54,000)" in the second sentence of subsection (c).

Session Laws 1996, Second Extra Session, c. 18, ss. 28.7 and 28.8, effective September 1, 1996, substituted "fifty-seven thousand five hundred fifty-nine dollars ($57,559)" for "fifty-five thousand eighty dollars ($55,080)" in subsection (c); and substituted "two hundred forty-eight dollars ($248.00) per week" for "two hundred thirty-seven dollars ($237.00) per week" in subsection (b).

ARTICLE 11.

Legislative Intern Program.

§ 120-56. Legislative Intern Program Council created.

There is hereby created the Legislative Intern Program Council which shall consist of the President Pro Tempore of the Senate or the designee of that person, the Speaker of the House of Representatives or the designee of that person, and the chairman of the department of politics at North Carolina State University. Such Council shall establish a program for legislative interns for both houses of the General Assembly. (1969, c. 32; 1995, c. 490, s. 29.)

Editor's Note. — Session Laws 1995, c. 490, which amended this section, in s. 65 provides: "This act applies with respect to terms beginning on or after January 1, 1997, and to vacancies occurring on or after that date regardless of the date the term began."

Effect of Amendments. — The 1995 amendment in the first sentence added "Pro Tempore", and twice added "or the designee of that person". For the applicability of this amendment, see editor's note.

ARTICLE 12A.

Joint Legislative Utility Review Committee.

§ 120-70.2. (For applicability, see note) Appointment of members and organization.

The Joint Committee shall consist of ten sitting members of the General Assembly. Five shall be appointed by the President Pro Tempore of the Senate from the membership of the Senate and five shall be appointed by the Speaker of the House of Representatives from the membership of the House. Members will serve at the pleasure of their appointing officer and any vacancies occurring on the Joint Committee shall be filled by the appointing officer of the appropriate house. The President Pro Tempore of the Senate shall designate one Senator to serve as cochairman and the Speaker of the House of Representatives shall designate one Representative to serve as cochairman. A quorum shall consist of six members. (1985, c. 499, s. 1; 1991, c. 739, s. 1; 1995, c. 440, s. 1; c. 542, s. 20.5.)

Editor's Note. —

Session Laws 1995, c. 542, s. 1, provides that that act shall be known as "The Studies Act of 1995".

For applicability of this section as enacted, see the main pamphlet.

Effect of Amendments. — Session Laws 1995 c. 440, s. 1, effective July 17, 1995, substituted "appointing" for "presiding" following "filled by the" in the third sentence.

Session Laws 1995 c. 542, s. 20.5, effective July 29, 1995, in the first sentence substituted "ten" for "six", in the second sentence twice substituted "five" for "three", and in the last sentence substituted "six" for "four".

ARTICLE 12C.

Joint Select Committee on Low-Level Radioactive Waste.

§ 120-70.36. Staffing.

The Legislative Services Officer shall assign as staff to the Joint Select Committee professional employees of the General Assembly, as approved by the Legislative Services Commission. Clerical staff shall be assigned to the Joint Select Committee through the offices of the Supervisor of Clerks of the Senate and Supervisor of Clerks of the House of Representatives. The expenses of employment of clerical staff shall be borne by the Joint Select Committee. (1987 (Reg. Sess., 1988), c. 1100, s. 3.1; 1996, 2nd Ex. Sess., c. 18, s. 8(e).)

Editor's Note. — Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — The 1996 Second Extra Session amendment, effective July 1, 1996, substituted "Legislative Services Officer" for "Legislative Administrative Officer" in the first sentence.

ARTICLE 12D.

Environmental Review Commission.

§ 120-70.41. Commission established.

Editor's Note. — Session Laws 1995, c. 542, s. 1, provides that that act shall be known as "The Studies Act of 1995".

Session Laws 1995, c. 542, s. 7.1, provides that the Environmental Review Commission shall study the organization, powers, duties, and functions of the boards, commissions, and councils within State government that currently exercise environmental rule making to determine if those functions should be consolidated into a full-time Environmental Commission.

§ 120-70.46. Staffing.

The Legislative Services Officer shall assign as staff to the Environmental Review Commission professional employees of the General Assembly, as approved by the Legislative Services Commission. Clerical staff shall be assigned to the Environmental Review Commission through the offices of the Supervisor of Clerks of the Senate and Supervisor of Clerks of the House of Representatives. The expenses of employment of clerical staff shall be borne by the Environmental Review Commission. (1987 (Reg. Sess., 1988), c. 1100, s. 4.1; 1996, 2nd Ex. Sess., c. 18, s. 8(f).)

Editor's Note. — Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — The 1996 Second Extra Session amendment, effective July 1, 1996, substituted "Legislative Services Officer" for "Legislative Administrative Officer" in the first sentence.

ARTICLE 12E.

Joint Legislative Transportation Oversight Committee.

§ 120-70.50. Creation and membership of Joint Legislative Transportation Oversight Committee.

Editor's Note. — Session Laws 1989, c. 692, s. 8.4 as amended by Session Laws 1995 (Reg. Sess., 1996), c. 590, s. 7, effective upon the certification of a favorable vote on the bonds by the State Board of Elections to the Secretary of State, provides that when contracts for all projects specified in Article 14 of

Chapter 136 have been let and sufficient revenue has been accumulated to pay the contracts, the Secretary of Transportation shall certify this occurrence by letter to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Secretary of State, which contingency is not expected to occur until some years after the date of enactment. The proceeds of bonds and notes issued pursuant to the State Highway Bond Act shall not be included as revenues accumulated to pay the contracts for the projects specified in Article 14 of Chapter 136. The changes will not become effective until the State Treasurer certifies by letter to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Secretary of State that all of the bonds and notes issued pursuant to the State Highway Bond Act of 1996 have been retired or provision for their retirement has been made. This Article 12E shall be repealed pursuant to s. 8.4 of c. 692, effective the first day of the calendar quarter following the date the Secretary sends the letter, unless there is less than 30 days between that date and the first day of the following quarter, in which case, the repeal of Article 12E will become effective the first day of the second calendar quarter following the date the letter is sent.

§ 120-70.52. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Transportation Oversight Committee. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is nine members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through 120-19.4.

(c) The Committee shall be funded by appropriations made to the Highway Trust Fund and allocated to the Intrastate System projects. Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee. (1989, c. 692, s. 1.2; 1993, c. 321, s. 169.2(c); 1996, 2nd Ex. Sess., c. 18, s. 8(g).)

Editor's Note. —

Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — The 1996 Second Extra Session amendment, effective July 1, 1996, substituted "Legislative Services Officer" for "Legislative Administrative Officer" in subsection (c).

ARTICLE 12F.

Joint Legislative Commission on Seafood and Aquaculture.

§ 120-70.65. Staffing.

The Legislative Services Officer shall assign as staff to the Commission professional employees of the General Assembly, as approved by the Legislative Services Commission. Clerical staff shall be assigned to the Commission through the Offices of the Supervisor of Clerks of the Senate and Supervisor of Clerks of the House of Representatives. The expenses of employment of clerical staff shall be borne by the Commission. (1989, c. 802, s. 12.1; 1996, 2nd Ex. Sess., c. 18, s. 8(h).)

Editor's Note. — Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — The 1996 Second Extra Session amendment, effective July 1, 1996, substituted "Legislative Services Officer" for "Legislative Administrative Officer" in the first sentence.

ARTICLE 12H.

Joint Legislative Education Oversight Committee.

Editor's Note. — The School Improvement and Accountability Act of 1989, referred to above, is Session Laws 1989, c. 778.

§ 120-70.82. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Education Committee. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is nine members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee. (1989 (Reg. Sess., 1990), c. 1066, s. 115; 1996, 2nd Ex. Sess., c. 18, s. 8(i).)

Editor's Note. — Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — The 1996 Second Extra Session amendment, effective July 1, 1996, substituted "Legislative Services Officer" for "Legislative Administrative Officer" in subsection (c).

ARTICLE 12I.

Joint Legislative Oversight Committee on Early Childhood Education and Development Initiatives.

§§ 120-70.90 through 120-70.92: Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 24.29(g), effective July 1, 1996.

Editor's Note. — G.S. 120-70.92 was amended by Session Laws 1996, Second Extra Session, c. 18, s. 8(j), to substitute "Legislative Services Officer" for "Legislative Administrative Officer" in subsection (c), effective July 1, 1996. Because of the repeal of this section, the amendment is not set out.

Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

ARTICLE 12J.

Joint Legislative Corrections Oversight Committee.

§ 120-70.95. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Corrections Oversight Committee. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is nine members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee. (1994, Ex. Sess., c. 24, s. 49(a); 1996, 2nd Ex. Sess., c. 18, s. 8(k).)

Editor's Note. — Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — The 1996 Second Extra Session amendment, effective July 1, 1996, substituted "Legislative Services Officer" for "Legislative Administrative Officer" in subsection (c).

ARTICLE 12K.

Joint Legislative Administrative Procedure Oversight Committee.

§ 120-70.100. Creation and membership of Joint Legislative Administrative Procedure Oversight Committee.

(a) The Joint Legislative Administrative Procedure Oversight Committee is established. The Committee consists of 16 members as follows:

(1) Eight members of the Senate appointed by the President Pro Tempore of the Senate, at least three of whom are members of the minority party.

(2) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives, at least three of whom are members of the minority party.

(b) Members of the Committee shall serve a term of two years beginning on January 15 of each odd-numbered year. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee. A member continues to serve until the member's successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment. (1995, c. 507, s. 27.8(a).)

Editor's Note. — Session Laws 1995, c. 507, which enacted this article, in s. 27.8(z) provides that this article is effective December 1, 1995, and is applicable to all rules for which a notice of rule making is published in the North Carolina Register on or after that date and to rule and Building Code changes that are initiated on or after that date and that are not subject to the rule-making procedures set out in Article 2A of Chapter 150B of the General Statutes.

Session Laws 1995, c. 507, s. 1.1, provides that that act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.9, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1995-97 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1995-97 biennium."

Session Laws 1995, c. 507, s. 27.8(t), provides: "Notwithstanding G.S. 120-70.100(b), as enacted by subsection (a) of this section, the terms of initial members of the Joint Legislative Administrative Procedure Oversight Committee shall begin upon appointment and shall end on January 15, 1997."

Session Laws 1995, c. 507, s. 28.12 is a severability clause.

§ 120-70.101. Purpose and powers of Committee.

The Joint Legislative Administrative Procedure Oversight Committee has the following powers and duties:

(1) To review rules to which the Rules Review Commission has objected to determine if statutory changes are needed to enable the agency to fulfill the intent of the General Assembly.

(2) To receive reports prepared by the Rules Review Commission containing the text and a summary of each rule approved by the Commission.

(3) To prepare a notebook that contains the administrative rules that have been approved by the Rules Review Commission and reported to the Committee and to notify each member of the General Assembly of the availability of the notebook.

(4) To review State regulatory programs to determine if the programs overlap, have conflicting goals, or could be simplified and still achieve the purpose of the regulation.

(5) To review existing rules to determine if the rules are necessary or if the rules can be streamlined.

(6) To review the rule-making process to determine if the procedures for adopting rules give the public adequate notice of and information about proposed rules.

(7) To review any other concerns about administrative law to determine if statutory changes are needed.

(8) To report to the General Assembly from time to time concerning the Committee's activities and any recommendations for statutory changes. (1995, c. 507, s. 27.8(a); 1996, 2nd Ex. Sess., c. 18, s. 7.10(h).)

Editor's Note. — Session Laws 1995, c. 507, s. 1.1, provides that that act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — The 1996 Second Extra Session amendment, effective August 3, 1996, substituted "from time to time" for "at the beginning of each regular session" in subdivision (8).

§ 120-70.102. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Administrative Procedure Oversight Committee. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is nine members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Committee may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be paid by the Committee. (1995, c. 507, s. 27.8(a); 1996, 2nd Ex. Sess., c. 18, s. 8(*l*).)

Editor's Note. — Session Laws 1995, c. 507, s. 1.1, provides that that act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — The 1996 Second Extra Session amendment, effective July 1, 1996, substituted "Legislative Services Officer" for "Legislative Administrative Officer" in subsection (c).

§ 120-70.103. Exercise of duty to maintain a notebook of approved rules.

With the approval of the Legislative Services Commission, the Joint Legislative Administrative Procedure Oversight Committee may delegate to the Legislative Library the duty to maintain a notebook containing rules approved by the Rules Review Commission. Whether the notebook is maintained by the Committee or by the Legislative Library, rules shall be filed in the notebook in accordance with the numbering system used in the North Carolina Administrative Code. (1995, c. 507, s. 27.8(a).)

Editor's Note. — Session Laws 1995, c. 507, s. 1.1, provides that that act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

ARTICLE 13.

Joint Legislative Commission on Governmental Operations.

§ 120-74. Appointment of members; terms of office.

The Commission shall consist of 26 members. The President pro tempore of the Senate, the Speaker pro tempore of the House, and the Majority Leader of the Senate and the Speaker of the House shall serve as ex officio members of the Commission. The Speaker of the House of Representatives shall appoint eleven members from the House. The President pro tempore of the Senate shall appoint eleven members from the Senate. Vacancies created by resignation or otherwise shall be filled by the original appointing authority. Members shall serve two-year terms beginning and ending on January 15 of the odd-numbered years, except that initial appointments shall begin on July 1, 1975. Members shall not be disqualified from completing a term of service on the Commission because they fail to run or are defeated for reelection. Resignation or removal from the General Assembly shall constitute resignation or removal from membership on the Commission. The terms of the initial members of the Commission shall expire January 15, 1977. (1975, c. 490; 1977, c. 988, s. 1; 1979, c. 932, s. 9; 1981, c. 859, s. 85; 1985, c. 757, s. 142(a)-(c); 1991, c. 72, s. 1; 1995, c. 542, s. 24.1(a).)

Editor's Note. — Session Laws 1995, c. 542, s. 1, provides that that act shall be known as "The Studies Act of 1995".

Session Laws 1995, c. 542, s. 24.1(b), provides: "Appointees to the new positions created under this section shall serve initial terms beginning on the date of their appointment and ending January 15, 1997."

Effect of Amendments. — The 1995 amendment, effective July 29, 1995, substituted "26 members" for "22 members" in the first sentence, and in the third and fourth sentences substituted "eleven members" for "nine members".

§ 120-76. Powers and duties of the Commission.

The Commission shall have the following powers:

(1) To conduct program evaluation studies of the various components of State agency activity as they relate to:
  a. Service benefits of each program relative to expenditures;
  b. Achievement of program goals;
  c. Use of indicators by which the success or failure of a program may be gauged; and
  d. Conformity with legislative intent.

(2) To study legislation which would result in new programs with statewide implications for feasibility and need. These studies may be jointly conducted with the Fiscal Research Division of the Legislative Services Commission.

(3) To study on a continuing basis the implementation of State government reorganization with respect to:
  a. Improvements in administrative structure, practices and procedures;
  b. The relative effectiveness of centralization and decentralization of management decisions for agency operation;
  c. Opportunities for effective citizen participation; and
  d. Broadening of career opportunities for professional staff.

(4) To make such studies and reports of the operations and functions of State government as it deems appropriate or upon petition by resolution of either the Senate or the House of Representatives.

(5) To produce routine written reports of findings for general legislative and public distribution. Special attention shall be given to the presentation of findings to the appropriate committees of the Senate and the House of Representatives. If findings arrived at during a study have a potential impact on either the finance or appropriations deliberations, such findings shall immediately be presented to the committees. Such reports shall contain recommendations for appropriate executive action and when legislation is considered necessary to effect change, draft legislation for that purpose may be included. Such reports as are submitted shall include but not be limited to the following matters:
  a. Ways in which the agencies may operate more economically and efficiently;

b. Ways in which agencies can provide better services to the State and to the people; and

c. Areas in which functions of State agencies are duplicative, overlapping, or failing to accomplish legislative objectives, or for any other reason should be redefined or redistributed.

(6) To devise a system, in cooperation with the Fiscal Research Division of the Legislative Services Commission, whereby all new programs authorized by the General Assembly incorporate an evaluation component. The results of such evaluations may be made to the Appropriations Committees at the beginning of each regular session.

(7) To evaluate and approve or deny requests from the Department of Transportation regarding the funding of federally eligible construction projects as provided in the fourth paragraph of G.S. 136-44.2.

(8) The Joint Legislative Commission on Governmental Operations shall be consulted by the Governor before the Governor does any of the following:

a. Makes allocations from the Contingency and Emergency Fund.

b. Authorizes expenditures in excess of the total requirements of a program as enacted by the General Assembly, except for trust funds as defined in G.S. 116-36.1(g).

c. Proceeds to reduce programs subsequent to a reduction of ten percent (10%) or more in the federal fund level certified to a department and any subsequent changes in distribution formulas.

d. Takes extraordinary measures under Article III, Section 5(3) of the Constitution to effect necessary economies in State expenditures required for balancing the budget due to a revenue shortfall, including, but not limited to, the following: loans among funds, personnel freezes or layoffs, capital project reversions, program eliminations, and use of reserves. However, if the Committee fails to meet within 10 calendar days of a request by the Governor for its consultation, the Governor may proceed to take the actions he feels are appropriate and necessary and shall then report those actions at the next meeting of the Commission.

e. Approves a new capital improvement project funded from gifts, grants, receipts, special funds, self-liquidating indebtedness, and other funds or any combination of funds for the project not specifically authorized by the General Assembly. The budget for each capital project must include projected revenues in an amount not less than projected expenditures.

Notwithstanding the provisions of this subdivision or any other provision of law requiring prior consultation by the Governor with the Commission, whenever an expenditure is required because of an emergency that poses an imminent threat to public health or public safety, and is either the result of a natural event, such as a hurricane or a flood, or an accident, such as an explosion or a wreck, the Governor may take action under this subsection without consulting the Commission if the action is determined by the Governor to be related to the emergency. The Governor shall report to the Commission on any expenditures made under this paragraph no later than 30 days after making the expenditure and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency. (1975, c. 490; 1981, c. 859, s. 87; 1996, 2nd Ex. Sess., c. 18, s. 7.4(a).)

Editor's Note. — Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. — The 1996 Second Extra Session amendment, effective July 1, 1996, added subdivision (8).

ARTICLE 14.

Legislative Ethics Act.

Part 3. Legislative Ethics Committee.

§ 120-99. (For applicability, see note) Creation; composition.

The Legislative Ethics Committee is created to consist of ten members, five Senators appointed by the President Pro Tempore of the Senate, among them — two from a list of four submitted by the Majority Leader and two from a list of four submitted by the Minority Leader, and five members of the House of Representatives appointed by the Speaker of the House, among them — two from a list of four submitted by the Majority Leader and two from a list of four submitted by the Minority Leader.

The President Pro Tempore of the Senate and the Speaker of the House shall each designate a cochair of the Legislative Ethics Committee from the respective officer's appointees. The cochair appointed by the President Pro Tempore of the Senate shall preside over the Legislative Ethics Committee during the odd-numbered year, and the cochair appointed by the Speaker of the House shall preside in the even-numbered year.

The provisions of G.S. 120-19.1 through G.S. 120-19.8 shall apply to the proceedings of the Legislative Ethics Committee as if it were a joint committee of the General Assembly, except that both cochairs shall sign all subpoenas on behalf of the Committee. (1975, c. 564, s. 1; 1985, c. 790, s. 6; 1991, c. 739, s. 15; 1995, c. 180, s. 1.)

Editor's Note. —

Session Laws 1995, c. 180, s. 4 provides that the terms of office of the current members of the Legislative Ethics Committee shall not be affected by that act, except that the Senator previously appointed as chairman is designated the cochair from the Senate and shall serve until the expiration of the Senator's current term of office as a member of the General Assembly and the Speaker of the House shall make the additional appointment as soon as practicable after ratification (June 6, 1995).

Effect of Amendments. — The 1995 amendment, effective June 6, 1995, in the first paragraph substituted "ten members, five Senators" for "a chairman and eight members, four Senators" following "created to consist of", inserted "among them —" twice preceding "two from a list of four", and substituted "five" for "four" preceding "members of the House"; rewrote the second paragraph; and substituted "both cochairs" for "the chairman" preceding "shall sign all subpoenas" in the last paragraph.

§ 120-100. Term of office; vacancies.

Appointments to the Legislative Ethics Committee shall be made immediately after the convening of the regular session of the General Assembly in odd-numbered years, and appointees shall serve until the expiration of their then-current terms as members of the General Assembly. A vacancy occurring for any reason during a term shall be filled for the unexpired term by the authority making the appointment which caused the vacancy, and the person appointed to fill the vacancy shall, if possible, be a member of the same political party as the member who caused the vacancy. (1975, c. 564, s. 1; 1995, c. 180, s. 2.)

Editor's Note. — Session Laws 1995, c. 180, s. 4 provides that the terms of office of the current members of the Legislative Ethics Committee shall not be affected by that act, except that the Senator previously appointed as chairman is designated the cochair from the Senate and shall serve until the expiration of the Senator's current term of office as a member of the General Assembly and the Speaker of the House shall make the additional appointment as soon as practicable after ratification (June 6, 1995).

Effect of Amendments. — The 1995 amendment, effective June 6, 1995, deleted the first sentence regarding initial members of the Legislative Ethics Committee and expiration of their terms; substituted "Appointments to the Legislative Ethics Committee" for "Thereafter, appointments" at the beginning of the present first sentence; and deleted the former third sentence which read "The chairman shall serve for one year and shall be appointed each year."

§ 120-101. Quorum; expenses of members.

Six members constitute a quorum of the Committee. A vacancy on the Committee does not impair the right of the remaining members to exercise all the powers of the Committee.

The members of the Committee, while serving on the business of the Committee, are performing legislative duties and are entitled to the subsistence and travel allowances to which members of the General Assembly are entitled when performing legislative duties. (1975, c. 564, s. 1; 1995, c. 180, s. 3.)

Effect of Amendments. — The 1995 amendment, effective June 6, 1995, substituted "Six members" for "Five members" at the beginning of the first paragraph and deleted "chairman and" preceding "members of the Committee" near the beginning of the second paragraph.

ARTICLE 16.

Legislative Appointments to Boards and Commissions.

§ 120-123. Service by members of the General Assembly on certain boards and commissions.

No member of the General Assembly may serve on any of the following boards or commissions:

(1) The Board of Agriculture, as established by G.S. 106-2.
(1a) Not effectuated.
(1b) The Rules Review Commission as established by G.S. 143B-30.1.
(2) The Art Museum Building Commission, as established by G.S. 143B-59.
(3) The Governor's Advocacy Council for Persons with Disabilities, as established by G.S. 143B-403.2.
(3a) The State Banking Commission, as established by G.S. 53-92.
(4) The Board of Public Telecommunications Commissioners, as established by G.S. 143B-426.9.
(5) The Board of Transportation, as established by G.S. 143B-350.
(6) The Board of Trustees Teachers' and State Employees' Retirement System, as established by G.S. 135-6.
(6a) Repealed by Session Laws 1991 (Regular Session, 1992), c. 1030, s. 33, effective July 24, 1992.
(7) The Coastal Resources Commission, as established by G.S. 113A-104.
(8) The Environmental Management Commission, as established by G.S. 143B-283.
(8a) The Genetic Engineering Review Board, as created by G.S. 106-769.
(9) The State Fire and Rescue Commission, as established by G.S. 58-78-1.
(10) The Public Officers and Employees Liability Insurance Commission, as established by G.S. 58-32-1.
(11) Repealed by Session Laws 1983 (Regular Session, 1984), c. 995, s. 4.
(12) Repealed by Session Laws 1987, c. 71, s. 4.
(13) The North Carolina Criminal Justice Education and Training Standards Commission, as established by G.S. 17C-3.
(14) The North Carolina Housing Finance Agency Board of Directors, as established by G.S. 122A-4.
(15) The North Carolina Seafood Industrial Park Authority, as established by G.S. 113-315.25.
(16) Repealed by Session Laws 1985, c. 479, s. 153(b).
(17) The Board of Trustees of the North Carolina School of Science and Mathematics, as established by G.S. 116-233.
(18) The North Carolina Board of Science and Technology, as established by G.S. 143B-426.30.
(19) Repealed by Session Laws 1989, c. 500, s. 107(b).
(20) Repealed by Session Laws 1989 (Regular Session, 1990), c. 1024, s. 23(a).

(21) The Board of Trustees of the University of North Carolina Center for Public Television, as established by G.S. 116-37.1.
(22) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, as established by G.S. 143B-147.
(23) Repealed by Session Laws 1993, c. 501, s. 12, effective July 23, 1993.
(24) The North Carolina Alcoholism Research Authority, as established by G.S. 122C-431.
(25) The North Carolina Ports Railway Commission, as established by G.S. 143B-469.
(25a) The North Carolina Global TransPark Authority as established under G.S. 63A-3.
(26) The North Carolina State Ports Authority, as established by G.S. 143B-452.
(27) The Property Tax Commission, as established by G.S. 105-288.
(28) The Social Services Commission, as established by G.S. 143B-154.
(29) The North Carolina State Commission of Indian Affairs, as established by G.S. 143B-407.
(30) The Wildlife Resources Commission, as established by G.S. 143-240.
(31) The North Carolina Council for Women, as established by G.S. 143B-393.
(32) The Board of Trustees of North Carolina Museum of Art, established by G.S. 140-5.13.
(33) The North Carolina Sheriffs' Education and Training Standards Commission, established by G.S. 17E.
(33a) Repealed by Session Laws 1987, c. 738, s. 41(d).
(34) The Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan, as established by G.S. 143B-426.24.
(34a) Repealed by Session Laws 1989 (Regular Session, 1990), c. 1024, s. 23(b).
(34b) The North Carolina Housing Partnership, as established by G.S. 122E-4.
(35) The Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan, as established by G.S. 135-39.
(36) The Milk Commission as established by G.S. 106-266.7.
(37) The State Board of Chiropractic Examiners as established by G.S. 90-139.
(38) The North Carolina Manufactured Housing Board, as established by G.S. 143-143.10.
(39) Repealed by Session Laws 1987, c. 71, s. 4.
(40) The Alarm System Licensing Board, as established by G.S. 74D-4.
(41) Repealed by Session Laws 1985 (Regular Session, 1986), c. 1011, s. 2.1(c).
(42) The Crime Victims Compensation Commission, as established by G.S. 15B-3.
(43) The North Carolina Council on Ocean Affairs, as established by G.S. 143B-390.10.
(44) The Child Day-Care Commission, as established by G.S. 143B-168.3.

(45) Repealed by Session Laws 1995, c. 517, s. 39, effective October 1, 1995.
(45a) The North Carolina Teaching Fellows Commission, as established by G.S. 115C-363.22.
(46) The Board of Directors of the North Carolina Arboretum, as established in G.S. 116-240.
(47) The North Carolina Agricultural Finance Authority, as established by G.S. 122D-4.
(48) Reserved for future codification purposes.
(49) The Northeastern North Carolina Farmers Market Commission as established by G.S. 106-720.
(50) The Southeastern North Carolina Farmers Market Commission as established by G.S. 106-727.
(50a) The North Carolina Board of Dietetics/Nutrition as created by Article 25 of Chapter 90 of the General Statutes.
(51) The State Building Commission, as established by G.S. 143-135.25.
(52) The Commission on School Facility Needs, established by G.S. 115C-489.4.
(53) The North Carolina Marine Fisheries Commission as established by G.S. 143B-289.5.
(54) The North Carolina Low-Level Radioactive Waste Management Authority, as established by G.S. 104G-5.
(55) The North Carolina Health Insurance Trust Commission, as established by G.S. 58-68-10.
(56) The North Carolina Hazardous Waste Management Commission, as established by G.S. 130B-6.
(57) The Information Resource Management Commission, as established by G.S. 143B-426.21.
(58) The Appraisal Board created in G.S. 93E-1-5.
(59) The North Carolina Aquariums Commission, as established by G.S. 143B-390.15.
(59a) The North Carolina Principal Fellows Commission established by G.S. 116-74.41.
(60) The Commission on School Technology, as established by G.S. 115C-102.5, except as provided in G.S. 115C-102.5(c).
(61) The State Health Plan Purchasing Alliance Board, as established by G.S. 143-625.
(62) The Northeastern North Carolina Regional Economic Development Commission, as established by G.S. 158-8.2.
(63) The Teacher Academy Board of Trustees, as established by Section 17.9 of House Bill 229 of the 1995 General Assembly [G.S. 116-30.01].
(63a) The North Carolina Code Officials Qualification Board, as established by G.S. 143-151.9.
(64) A facility authority established under Part 4 of Article 20 of Chapter 160A of the General Statutes.
(64a) The North Carolina Educational Facilities Finance Agency, as established by G.S. 115E-4.
(65) The Board of Governors of the North Carolina Health Care Excess Liability Fund, as established by G.S. 58-47-20.
(66) The Local Government Commission, as established by G.S. 159-3.
(67) The Board of Trustees of the Natural Heritage Trust Fund, as established by G.S. 113-77.8. (1981 (Reg. Sess., 1982), c. 1191, s. 2; 1983, c. 328, s. 1.1; c. 558, s. 5; c. 559, s. 4; c. 717,

ss. 2, 3, 43.2, 99, 105, 110; c. 761, s. 179; c. 778, s. 2; c. 786, s. 9; c. 789, s. 2; c. 832, ss. 2, 6; c. 871, s. 3; c. 899, s. 3; 1983 (Reg. Sess., 1984), c. 995, ss. 4, 19; 1985, c. 202, s. 5; c. 479, s. 153(b); c. 589, s. 37; c. 666, s. 80; c. 746, s. 6; c. 757, ss. 155(b), 167(h), 179(e), 206(f), 208(c); 1985 (Reg. Sess., 1986), c. 1011, ss. 2, 2.1(c); c. 1014, ss. 63(h), 99; c. 1028, s. 33; c. 1029, s. 14.3; 1987, c. 71, ss. 4, 5; c. 622, s. 15; c. 641, s. 21; c. 738, s. 41(d); c. 765, s. 2; c. 841, s. 4; c. 850, s. 18; 1987 (Reg. Sess., 1988), c. 993, s. 27; 1989, c. 139, s. 2; c. 168, s. 8; c. 239, s. 7; c. 500, ss. 107(b), 109(g); c. 625, s. 24; c. 727, s. 140; c. 750, s. 4; c. 752, s. 148(c); 1989 (Reg. Sess., 1990), c. 827, s. 14; c. 1024, s. 23(a)-(d); c. 1074, s. 32(a)-(c); 1991, c. 134, s. 1; c. 301, s. 1; c. 668, s. 2; c. 749, s. 6; 1991 (Reg. Sess., 1992), c. 900, s. 14(f); c. 1007, s. 37; c. 1030, ss. 33, 51.14; c. 1044, s. 10(b); 1993, c. 321, ss. 85(d), 135(b), 309.1(b); c. 405, s. 18.1; c. 419, s. 13.1; c. 501, s. 12; c. 529, s. 3.9; 1993 (Reg. Sess., 1994), c. 777, s. 4(f); 1995, c. 324, s. 17.9(i); c. 458, s. 2; c. 490, ss. 12(b), 17(b), 21(b), 30(b), 37(b); c. 517, s. 39(d).)

Editor's Note. — The majority of section 17.9 of House Bill 229 of the 1995 of the General Assembly, which is referred to above in subdivision (63), has been codified as 116-30.01 at the direction of the Revisor of Statutes.

Session Laws 1995, c. 324, s. 1.1, provides: "This act shall be known as the Continuation Budget Operations Appropriations Act of 1995."

Session Laws 1995, c. 490, which amended this section, in s. 65 provides: "This act applies with respect to terms beginning on or after January 1, 1997, and to vacancies occurring on or after that date regardless of the date the term began."

Session Laws 1995, c. 324, s. 28.4, c. 458, s. 6 and c. 517, ss. 39(i) and 41, contain severability clauses.

Effect of Amendments. — Session Laws 1995, c. 324, s. 17, effective July 1, 1995, added subdivision (63).

Session Laws 1995, c. 458, s. 2, effective July 19, 1995, added subdivision (64).

Session Laws 1995, c. 490, ss. 12(b), 17(b), 21(b), 30(b) and 37(b), added subdivisions (63a), (64a), (65), (66) and (67). For the applicability of this amendment, see editor's note.

Session Laws 1995, c. 517, s. 39(d), effective October 1, 1995, repealed subdivision (45).

Article 17.

Confidentiality of Legislative Communications.

§ 120-131.1. Requests from legislative employees for assistance in the preparation of fiscal notes.

(a) A request made to an employee of a State agency other than the General Assembly by an employee of the Fiscal Research Division for assistance in the preparation of a fiscal note is confidential. An employee of a State agency other than the General Assembly who receives such a request or who learns of such a request made to another employee of his or her agency shall reveal the existence of the request only to other employees of the agency to the extent that it is necessary to respond to the request, and to the employee's supervisor and to the Office of State Budget and Management. All documents prepared by the employee in response to the request of the Fiscal Research Division are also confidential and shall be kept confidential in the same manner as the original request, except that documents submitted to the Fiscal Research Division in response to the request cease to be confidential under this section when the Fiscal Research Division releases a fiscal note based on the documents.

(b) As used in this section, "employee" means an employee or officer of a State agency.

(c) Violation of this section may be grounds for disciplinary action. (1995, c. 324, s. 8.1(a); c. 507, s. 8.2.)

Editor's Note. — Session Laws 1995, c. 324, s. 8.1(b) made this section effective 30 days after ratification. The Act was ratified June 26, 1995.

Session Laws 1995, c. 324, s. 1.1, provides: "This act shall be known as the Continuation Budget Operations Appropriations Act of 1995."

Session Laws 1995, c. 324, s. 28.4 is a severability clause.

Session Laws 1995, c. 507, s. 1.1, provides that that act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.12 is a severability cause.

Effect of Amendments. — Session Laws 1995, c. 507, s. 8.2, effective July 1, 1995, added "except that documents submitted to the Fiscal Research Division in response to the request cease to be confidential under this section when the Fiscal Research Division releases a fiscal note based on the documents" at the end of the last sentence in subsection (a).

§ 120-133. (Effective January 1, 1997, contingent on approval of constitutional amendment) Redistricting communications.

Notwithstanding any other provision of law, all drafting and information requests to legislative employees and documents prepared by legislative employees for legislators concerning redistricting the North Carolina General Assembly or the Congressional Districts are no longer confidential and become public records upon the act establishing the relevant district plan becoming law. Present and former legislative employees may be required to disclose information otherwise protected by G.S. 120-132 concerning redistricting the North Carolina General Assembly or the Congressional Districts upon the act establishing the relevant district plan becoming law. (1983, c. 900, s. 1; 1995, c. 20, s. 13.)

For this section as in effect until January 1, 1997, contingent on approval of the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1 and 2, see the main pamphlet.

Editor's Note. — Session Laws 1995, c. 20, s. 17 provides that sections 1 through 16 of that act shall become effective only if the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1-2 are approved as provided by Session Laws 1995, c. 5, ss. 3-4, to be decided in the November, 1996, election, and if so approved, sections 1 through 16 shall become effective with respect to bills and joint resolutions passed in either house of the General Assembly on or after January 1, 1997.

Effect of Amendments. — The 1995 amendment, effective on or after January 1, 1997, if constitutional amendments proposed by 1995, c. 5. ss. 1-2 are approved, in the first and second sentences deleted "ratification of the" preceding "act establishing" and added "becoming law" at the end.

Article 18A.

Review of Proposals to License New Occupations and Professions.

§ 120-149.3. Assessment of new licensing boards.

(a) Any legislative proposal introduced in the General Assembly after the effective date of this act proposing (1) the establishment of a new licensing board, or (2) a study of the need to establish a new licensing board, shall not be eligible for consideration on the floor of either house (other than first reading) or before any committee of either house of the General Assembly until a final assessment report has been issued pursuant to G.S. 120-149.4(e), with a copy of the report accompanying the proposal in accordance with the rules of the appropriate house.

(b) If the proposal to establish a new licensing board is first contained in a legislative proposal, the sponsor shall present a copy of the legislative proposal to the Legislative Committee on New Licensing Boards which shall prepare an assessment report. If the proposal is not in the form of a legislative proposal, the person or organization seeking to establish a new licensing board may obtain an assessment report from the Committee only if a legislator requests such a report.

(c) **(Effective until January 1, 1997, contingent on approval of constitutional amendment)** If a legislative proposal receives a favorable report but is not ratified during the biennial session in which it is introduced, a new assessment report shall be required before the same or a substantially similar legislative proposal may be considered after first reading or by any committee during a subsequent biennial session of the General Assembly. If a proposal receives a favorable report but is not introduced as a legislative proposal, the favorable report shall expire at the adjournment of the biennial session coinciding with or following issuance of the final report.

(c) **(Effective January 1, 1997, contingent on approval of constitutional amendment)** If a legislative proposal receives a favorable report but does not become law during the biennial session in which it is introduced, a new assessment report shall be required before the same or a substantially similar legislative proposal may be considered after first reading or by any committee during a subsequent biennial session of the General Assembly. If a proposal receives a favorable report but is not introduced as a legislative proposal, the favorable report shall expire at the adjournment of the biennial session coinciding with or following issuance of the final report.

(d) A preliminary assessment report shall be prepared and returned to the sponsor or requesting legislator as soon as possible and not later than 60 days after the Committee receives the request, provided that if the volume of requests makes preparation of all such reports impossible within that time, the Committee may extend the time for preparation of any report to a maximum of 90 days from the time the request is received. The Committee shall not consider any request until it has received the information required by G.S. 120-149.4(a).

(e) If an amendment or committee substitute to a legislative proposal is introduced, the appropriate committee chairman, the presiding officer of the appropriate house, or the sponsor of the proposal may request a supplementary report when, in the opinion of any of them, the amendment or committee substitute substantially alters the legislative proposal. The supplementary report shall be prepared and returned to the requesting individual, and to the sponsor, within 30 days after the Committee receives the request.

(f) Each assessment report shall be designated as either preliminary, final, or supplementary and shall not constitute any part of the expression of legislative intent proposed by the formation of a new licensing board. An unfavorable final report shall not bar further consideration of the proposal on the floor or by any committee of either house.

(g) The Committee shall make all reports, including supplementary reports, available to all members of the General Assembly. At least one copy of all preliminary, final, and supplementary reports shall be maintained in the Legislative Library for public inspection. (1987, c. 180, s. 1; 1995, c. 20, s. 14.)

Subsection (c) Set Out Twice. — The first version of subsection (c) set out above is effective until January 1, 1997, contingent on approval of proposed constitutional amendment. The second version of subsection (c) set out above is effective January 1, 1997, contingent on approval of proposed constitutional amendment.

Editor's Note. — Session Laws 1995, c. 20, s. 17 provides that sections 1 through 16 of that act shall become effective only if the constitutional amendments proposed by Session Laws 1995, c. 5, ss. 1-2 are approved as provided by Session Laws 1995, c. 5, ss. 3-4, to be decided in the November, 1996, election, and if so approved, sections 1 through 16 shall become effective with respect to bills and joint resolutions passed in either house of the General Assembly on or after January 1, 1997.

Effect of Amendments. — The 1995 amendment, effective on or after January 1, 1997, if constitutional amendments proposed by 1995, c. 5, ss. 1-2 are approved, substituted "does not become law" for "is not ratified" in the first sentence of subsection (c).

ARTICLE 19.

Commission on Agriculture, Forestry, and Seafood Awareness.

§ 120-150. Creation; appointment of members.

There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

(1) Three appointed by the Governor;
(2) Three appointed by the President Pro Tempore of the Senate;
(3) Three appointed by the Speaker of the House;
(4) The chairman of the House Agriculture Committee;
(5) The chairman of the Senate Agriculture Committee;
(6) The Commissioner of Agriculture or his designee;

(7) A member of the Board of Agriculture designated by the chairman of the Board of Agriculture;
(8) The President of the North Carolina Farm Bureau Federation, Inc., or his designee;
(9) The Master of the North Carolina State Grange or his designee;
(10) The Secretary of the Department of Environment, Health, and Natural Resources or his designee; and
(11) The President of the North Carolina Forestry Association, Inc., or his designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The cochairmen of the Commission shall be the chairmen of the Senate and House Agriculture Committees respectively. (1985, c. 792, s. 20.1; 1989, c. 727, s. 218(81); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1991 (Reg. Sess., 1992), c. 785, s. 1; 1993, c. 23, s. 1; 1995, c. 490, s. 5.)

Editor's Note. — Session Laws 1995, c. 490, which amended this section, in s. 65 provides: "This act applies with respect to terms beginning on or after January 1, 1997, and to vacancies occurring on or after that date regardless of the date the term began."

Effect of Amendments. — The 1995 amendment added "Pro Tempore" in subdivision (2). For the applicability of this amendment, see editor's note.

ARTICLE 21.

The North Carolina Study Commission on Aging.

§ 120-186.1. Commission; Alzheimer's Subcommittee, Long-Term Care Subcommittee, and other subcommittees.

(a) The Commission cochairs shall appoint subcommittees as needed to assist with the completion of the work of the Commission. These subcommittees may include an Alzheimer's Subcommittee, a Long-Term Care Subcommittee, or other special subject subcommittees. The cochairs shall appoint as members of any subcommittee not more than four Commission members and at least four but no more than six non-Commission members.

(b) The Commission cochairs shall prescribe the duties of any subcommittee created. Duties of the Alzheimer's Subcommittee may include conducting studies on the availability and efficacy of currently existing geriatric or memory disorder services and programs, advising the Commission on matters regarding Alzheimer's services and programs, and recommending to the Commission solutions to related problems. Duties of the Long-Term Care Subcommittee may include developing a long-term care policy for the State that has at least the following elements:

(1) Promotes elder independence, choice, and dignity;
(2) Provides a seamless, uniform system of flexible and responsive services;
(3) Provides single-entry access;
(4) Includes a wide range of home and community-based services available to all elderly who need them but targeted primarily to the most frail, needy elderly;

(5) Provides care and services at the least expense in the least confusing manner and based on the desires of the elder population and their families;
(6) Expands Medicaid income eligibility to allow more services in the home and community;
(7) Creates a single agency and budget stream to administer services to the elderly; and
(8) Approaches long-term care within the context of the entire health care system. (1989, c. 368, s. 1; 1995 (Reg. Sess., 1996), c. 583, s. 1.)

Effect of Amendments. — The 1995 (Reg. Sess., 1996) amendment, effective June 20, 1996, added "Long-Term Care Subcommittee, and other subcommittees" to the catchline; and rewrote this section.

ARTICLE 22.

The Public Health Study Commission.

§ 120-195. (See editor's note) Commission created; purpose.

Editor's Note. —

Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1 provided for the repeal of this Article, and was amended by Session Laws 1995, c. 358, s. 6, by Session Laws 1995, c. 437, s. 4, and by Session Laws 1995, c. 467, s. 3, to make the repeal effective July 28, 1995. Session Laws 1995, c. 507, s. 23A.6(b), effective July 1, 1995, amended Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1, by deleting the language repealing this Article; therefore, the repeal has not been given effect.

Session Laws 1995, c. 507, s. 1.1, provides that the act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.12 is a severability clause.

§ 120-196. (See editor's note) Commission duties.

The Commission shall study the availability and accessibility of public health services to all citizens throughout the State. In conducting the study the Commission shall:

(1) Determine whether the public health services currently available in each county or district health department conform to the mission and essential services established under G.S. 130A-1.1;
(2) Study the workforce needs of each county or district health department, including salary levels, professional credentials, and continuing education requirements, and determine the impact that shortages of public health professional personnel have on the delivery of public health services in county and district health departments;
(3) Review the status and needs of local health departments relative to facilities, and the need for the development of minimum standards governing the provision and maintenance of these facilities;
(4) Propose a long-range plan for funding the public health system, which plan shall include a review and evaluation of the current structure and financing of public health in

North Carolina and any other recommendations the Commission deems appropriate based on its study activities;

(5) Conduct any other studies or evaluations the Commission considers necessary to effectuate its purpose; and

(6) Study the capacity of small counties to meet the core public health functions mandated by current State and federal law. The Commission shall consider whether the current county and district health departments should be organized into a network of larger multidistrict community administrative units. In making its recommendations on this study, the Commission shall consider whether the State should establish minimum populations for local health departments, and if so, shall recommend the number of and configuration for these multicounty administrative units and shall recommend a series of incentives to ease county transition into these new arrangements. (1993 (Reg. Sess., 1994), c. 771, s. 2.1; 1995, c. 507, s. 23A.6(a), (b).)

Editor's Note. — Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1 provided for the repeal of this Article, and was amended by Session Laws 1995, c. 358, s. 6, by Session Laws 1995, c. 437, s. 4, and by Session Laws 1995, c. 467, s. 3, to make the repeal effective July 28, 1995. Session Laws 1995, c. 507, s. 23A.6(b), effective July 1, 1995, amended Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1, by deleting the language repealing this Article; therefore, the repeal has not been given effect.

Session Laws 1995, c. 507, s. 1.1, provides that the act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.12 is a severability clause.

Effect of Amendments. — The 1995 amendment, effective July 1, 1995, deleted "and" at the end of subdivision (4); added "and" at the end of subdivision (5); and added subdivision (6).

§ 120-197. (See editor's note) Commission membership; vacancies; terms.

Editor's Note. — Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1 provided for the repeal of this Article, and was amended by Session Laws 1995, c. 358, s. 6, by Session Laws 1995, c. 437, s. 4, and by Session Laws 1995, c. 467, s. 3, to make the repeal effective July 28, 1995. Session Laws 1995, c. 507, s. 23A.6(b), effective July 1, 1995, amended Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1, by deleting the language repealing this Article; therefore, the repeal has not been given effect.

Session Laws 1995, c. 507, s. 1.1, provides that the act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.12 is a severability clause.

§ 120-198. (See editor's note) Commission meetings.

Editor's Note. — Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1 provided for the repeal of this Article, and was amended by Session Laws 1995, c. 358, s. 6, by Session Laws 1995, c. 437, s. 4, and by Session Laws 1995, c. 467, s. 3, to make the repeal effective July 28, 1995. Session Laws 1995, c. 507, s. 23A.6(b), effective July 1, 1995, amended Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1, by deleting the language repealing this Article; therefore, the repeal has not been given effect.

Session Laws 1995, c. 507, s. 1.1, provides that the act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.12 is a severability clause.

§ 120-199. (See editor's note) Commission reimbursement.

Editor's Note. — Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1 provided for the repeal of this Article, and was amended by Session Laws 1995, c. 358, s. 6, by Session Laws 1995, c. 437, s. 4, and by Session Laws 1995, c. 467, s. 3, to make the repeal effective July 28, 1995. Session Laws 1995, c. 507, s. 23A.6(b), effective July 1, 1995, amended Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1, by deleting the language repealing this Article; therefore, the repeal has not been given effect.

Session Laws 1995, c. 507, s. 1.1, provides that the act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.12 is a severability clause.

§ 120-200. (See editor's note) Commission subcommittees; non-Commission membership.

Editor's Note. — Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1 provided for the repeal of this Article, and was amended by Session Laws 1995, c. 358, s. 6, by Session Laws 1995, c. 437, s. 4, and by Session Laws 1995, c. 467, s. 3, to make the repeal effective July 28, 1995. Session Laws 1995, c. 507, s. 23A.6(b), effective July 1, 1995, amended Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1, by deleting the language repealing this Article; therefore, the repeal has not been given effect.

Session Laws 1995, c. 507, s. 1.1, provides that the act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.12 is a severability clause.

§ 120-201. (See editor's note) Commission authority.

Editor's Note. — Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1 provided for the repeal of this Article, and was amended by Session Laws 1995, c. 358, s. 6, by Session Laws 1995, c. 437, s. 4, and by Session Laws 1995, c. 467, s. 3, to make the repeal effective July 28, 1995. Session Laws 1995, c. 507, s. 23A.6(b), effective July 1, 1995, amended Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1, by deleting the language repealing this Article; therefore, the repeal has not been given effect.

Session Laws 1995, c. 507, s. 1.1, provides that the act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.12 is a severability clause.

§ 120-202. (See editor's note) Commission reports.

Editor's Note. — Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1 provided for the repeal of this Article, and was amended by Session Laws 1995, c. 358, s. 6, by Session Laws 1995, c. 437, s. 4, and by Session Laws 1995, c. 467, s. 3, to make the repeal effective July 28, 1995. Session Laws 1995, c. 507, s. 23A.6(b), effective July 1, 1995, amended Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1, by deleting the language repealing this Article; therefore, the repeal has not been given effect.

Session Laws 1995, c. 507, s. 1.1, provides that the act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.12 is a severability clause.

§ 120-203. (See editor's note) Commission staff; meeting place.

Editor's Note. — Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1 provided for the repeal of this Article, and was amended by Session Laws 1995, c. 358, s. 6, by Session Laws 1995, c. 437, s. 4, and by Session Laws 1995, c. 467, s. 3, to make the repeal effective July 28, 1995. Session Laws 1995, c. 507, s. 23A.6(b), effective July 1, 1995, amended Session Laws 1993 (Reg. Sess., 1994), c. 771, s. 8.1, by deleting the language repealing this Article; therefore, the repeal has not been given effect.

Session Laws 1995, c. 507, s. 1.1, provides that the act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.12 is a severability clause.

ARTICLE 23.

The Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services.

§ 120-204. Commission created; purpose.

There is established in the General Assembly a Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services. This commission shall study systemwide issues affecting the development, administration, and delivery of mental health, developmental disabilities, and substance abuse services, including issues relating to the governance, accountability, and quality of services delivered. (1996, 2nd Ex. Sess., c. 18, s. 24.8(a).)

Editor's Note. — Session Laws 1996, Second Extra Session, c. 18, s. 29.6, made this article effective July 1, 1996.

Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

§ 120-205. Commission membership; meetings; terms; vacancies.

(a) This commission shall be composed of 21 members appointed as follows:

(1) Seven members of the House of Representatives at the time of their appointment, appointed by the Speaker of the House of Representatives. Of these members, one shall be a Chair of the House Appropriations Subcommittee on Human Resources;

(2) Seven members of the Senate at the time of their appointment, appointed by the President Pro Tempore of the Senate. Of these members, one shall be the Chair of the Senate Human Resources Appropriations Committee;

(3) Three members who are representatives of Coalition 2001, appointed by the Governor. Of these members, one shall be a representative from mental health, one from developmental disabilities, and one from substance abuse services;

(4) Two members of the public, appointed by the Speaker of the House of Representatives. Of these members, one shall be a county commissioner at the time of appointment, selected from a list of four candidates nominated by the North Carolina Association of County Commissioners. If the Association has failed to submit nominations by September 1, 1996, the Speaker of the House of Representatives may appoint any county commissioner; and

(5) Two members of the public, appointed by the President Pro Tempore of the Senate. Of these members, one shall be a county commissioner at the time of appointment, selected from a list of four candidates nominated by the North Carolina Association of County Commissioners. If the Association has failed to submit nominations by September 1, 1996, the President Pro Tempore of the Senate may appoint any county commissioner.

(b) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each select a legislative member from their appointments to serve as cochair of the commission. Meetings shall be called at the will of the cochairs.

(c) All members shall serve at the will of their appointing officer. Unless removed or unless resigning, members shall serve for two-year terms. Members may be reappointed. Vacancies in membership shall be filled by the appropriate appointing officer. (1996, 2nd Ex. Sess., c. 18, s. 24.8(a).)

§ 120-206. Powers; per diem, subsistence, and travel allowances.

(a) The commission may contract for consulting services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the commission. The professional staff shall include the appropriate staff from the Fiscal Research, Research, and Legislative Drafting Divisions of the Legislative Services Office of the General Assembly. Clerical staff shall be furnished to the commission through the offices of the House of Representatives and Senate Supervisors of Clerks. The expenses of employment of the clerical staff shall be borne by the commission. The commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The commission, while in the discharge of official duties, may exercise all powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information and any data within their possession or ascertainable from their records, and the power to subpoena witnesses.

(b) Members of the commission shall receive per diem, subsistence, and travel allowances as follows:

(1) Commission members who are members of the General Assembly, at the rate established in G.S. 120-3.1;

(2) Commission members who are officials or employees of the State or of local government agencies, at the rate established in G.S. 138-6; and

(3) All other commission members, at the rate established in G.S. 138-5. (1996, 2nd Ex. Sess., c. 18, s. 24.8(a).)

§ 120-207. Reporting.

The commission shall report the results of its study, together with any legislative proposals and costs analyses, to every regular session of the General Assembly within a week of its convening. (1996, 2nd Ex. Sess., c. 18, s. 24.8(a).)

§§ 120-208 through 120-212: Reserved for future codification purposes.

Chapter 121.

Archives and History.

Article 1.

General Provisions.

Sec.
121-9. Historic properties.
121-12. North Carolina Historical Commission.

Article 4.

Conservation and Historic Preservation Agreements Act.

Sec.
121-35. Definitions.

ARTICLE 1.

General Provisions.

§ 121-9. Historic properties.

(a) Administration of Properties Acquired by State. — Historic or archaeological properties acquired by the State for administration by the State of North Carolina shall be under the control and administration of the Department of Cultural Resources. Upon approval of the North Carolina Historical Commission and the Secretary of Cultural Resources, the Department of Cultural Resources may, in its discretion, make a contract with any county or municipality within the State or with any nonprofit corporation or organization for the administration of any portion of such property.

(b) Acquisition of Historic Properties. — For the purpose of protecting or preserving any property of historical, architectural, archaeological, or other cultural importance to the people of North Carolina, and subject to the provisions of Subchapter II of Chapter 146 of the General Statutes, the Department may, with the approval of the North Carolina Historical Commission and after consultation with the Joint Legislative Commission on Governmental Operations, acquire, preserve, restore, hold, maintain, operate, and dispose of such properties, together with such adjacent lands as may be necessary for their protection, preservation, maintenance, and operation. Such property may be real or personal in nature, and in the case of real property, the acquisition may include the fee or any lesser interest therein. Property may be acquired by gift, grant, bequest, devise, lease, purchase, or condemnation pursuant to the provisions of Chapter 40A of the General Statutes, or otherwise. Property may be acquired by the Department, using such funds as may be appropriated for the purpose or moneys available to it from any other source.

(b1) In the case of real property, the North Carolina Historical Commission shall report the following information to the Joint Legislative Commission on Governmental Operations before acquiring the property:

(1) The statewide historical significance of the site.
(2) The potential uses of the site.
(3) The capital requirements of the site over a 20-year period of time.
(4) The annual operating costs of the site.
(5) The expected levels of visitation at the site.

(6) Any other information that would assist in determining the full cost of maintaining, operating, and administering the site as State property.

(c) Interests Which May Be Acquired. — In the case of real property, the interest acquired shall be limited to that estate, interest, or term deemed by the Department to be reasonably necessary for the continued protection or preservation of the property. The Department may acquire the fee simple title, but where it finds that a lesser interest, including any development right, negative or affirmative easement in gross or appurtenant, covenant, lease, or other contractual right of or to any real property to be the most practical and economical method of protecting and preserving historic property, the lesser interest may be acquired.

(d) Conveyance of Property for Preservation Purposes. — In appropriate cases, the Department may acquire or dispose of the fee or lesser interest to any such property for the specific purpose of conveying or leasing the property back to its original owner or of conveying or leasing it to such other person, firm, association, corporation, or other organization under such covenants, deed restrictions, lease, or other contractual arrangements as will limit the future use of the property in such a way as to insure its preservation. Where such action is taken, the property may be conveyed or leased by private sale. In all cases where property is conveyed, it shall be subjected by covenant or otherwise to such rights of access, public visitation, and other conditions or restrictions of operation, maintenance, restoration, and repair as the Department may prescribe, or to such conditions as may be agreed upon between the Department and the grantee or lessee to accomplish the purposes of this section.

(e) Use of Property so Acquired. — Any historic property acquired, whether in fee or otherwise, may be used, maintained, improved, restored, or operated by the Department for any public purpose within its powers and not inconsistent with the purpose of the continued preservation of the property. The property shall not be subject to condemnation by the State of North Carolina or any of its agencies or political subdivisions at any time, unless such method of acquisition is first approved by the Governor and Council of State.

(f) Emergency Acquisition Where Funds Not Immediately Available. — If funds or contributions for the acquisition of needed historic property are not available, the Governor and Council of State may, upon the recommendation of the Secretary of Cultural Resources and approval of the North Carolina Historical Commission, allocate from the Contingency and Emergency Fund an amount sufficient to acquire an option on the property or properties, which option shall continue until 90 days after the adjournment sine die of the next General Assembly. Upon recommendation of the Secretary and approval of the Historical Commission, the Governor and Council of State may allocate funds from the Contingency and Emergency Fund for the immediate acquisition, preservation, restoration, or operation of historically, archaeologically, architecturally, or culturally important properties. All funds hereinafter appropriated to purchase, restore, maintain, develop, or operate historic or archaeological or other important property shall be administered subject to the provisions of Article 1 of Chapter 143 of the General Statutes unless the statute making the appropriation shall in specific and express terms provide otherwise.

(g) Power to Acquire Property by Condemnation. — In the event that a property which has been found by the Department of Cultural Resources to be important for public ownership or assistance is in danger of being sold, used, or neglected to such an extent that its historical or cultural importance will be destroyed or seriously impaired, or that the property is otherwise in danger of destruction or serious impairment, the Department of Cultural Resources, after receiving the approval of the North Carolina Historical Commission and of the Governor and Council of State, may acquire the historic property or any interest therein by condemnation under the provisions of Chapter 40A of the General Statutes. The Department of Cultural Resources, upon finding that destruction or serious impairment of the value of the property is imminent, shall file with the Governor and Council of State a report on the importance of the property and the desirability of ownership of the property, or the ownership of an interest therein, by the State of North Carolina. Upon giving their approval, the Governor and Council of State shall cause to have filed such approval with the clerk of the superior court in the county or counties where the property is situated. Until the approval is filed, the power of condemnation may not be exercised. All condemnation proceedings shall be instituted and prosecuted in the name of the State of North Carolina.

(h) Preservation and Custodial Care of State Capitol. — The rotunda, corridors, and stairways of the first floor of the State Capitol and all portions of the second, third, and loft floors of the said building shall be placed in the custody of the Department of Cultural Resources; and the Department shall, subject to the availability of funds for the purpose, care for and administer these areas for the edification of present and future generations. The aforesaid areas shall be preserved as historic shrines and shall be maintained insofar as practicable as they shall appear following the restoration of the Capitol. The Department of Cultural Resources is authorized to deny the use of the legislative chambers for meetings in order that they, with their historic furnishings, may be better preserved for posterity; provided, however, that the General Assembly may hold therein such sessions as it may by resolution deem proper.

The Department of Cultural Resources is hereby entrusted with the responsibilities herein specified as being the agency with the experience best qualified to preserve and administer historic properties in a suitable manner. However, for the purposes of carrying out the provisions of this section, it is hereby directed that such cooperation and assistance shall be made available to the said Department of Cultural Resources and such labor supplied, as may be feasible, by the Department of Administration.

The offices and working areas of the first floor as well as all washrooms and the exterior of the Capitol shall remain under the jurisdiction of the Department of Administration: Provided, however, that the Department of Administration shall seek the advice of the Department of Cultural Resources in matters relating to any alteration, renovation, and furnishing of said offices and areas. (1955, c. 543, s. 1; 1961, c. 724; 1963, c. 210, s. 1; 1965, c. 1129; 1971, c. 480, ss. 1-3, 5; 1973, c. 476, s. 48; 1991 (Reg. Sess., 1992), c. 1030, s. 34; 1993 (Reg. Sess., 1994), c. 682, s. 2; 1995, c. 507, s. 12(b); 1996, 2nd Ex. Sess., c. 18, s. 7.7(a).)

Editor's Note. — Session Laws 1995, c. 507, s. 1.1, provides that the act shall be known and cited as the Expansion and Capital Improvements Appropriations Act of 1995.

Session Laws 1995, c. 507, s. 28.12 is a severability clause.

Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. —

The 1995 amendment, effective July 28, 1995, added subsection (h), which reenacted the law as it existed prior to July 1, 1995.

The 1996 Second Extra Session amendment, effective July 1, 1996, inserted "and after consultation with the Joint Legislative Commission on Governmental Operations" in subsection (b); and added subsection (b1).

§ 121-12. North Carolina Historical Commission.

(a) Protection of Properties on National Register. — It shall be the duty of the Historical Commission, meeting at such times and according to such procedures as it shall by rule prescribe, to provide an advisory and coordinative mechanism in and by which State undertakings of every kind that are potentially harmful to the cause of historic preservation within the State may be discussed, and where possible, resolved, giving due consideration to the competing public interests that may be involved. To this end, the head of any State agency having direct or indirect jurisdiction over a proposed State or state-assisted undertaking, or the head of any State department, board, commission, or independent agency having authority to build, construct, operate, license, authorize, assist, or approve any State or state-assisted undertaking, shall, prior to the approval of any State funds for the undertaking, or prior to any approval, license, or authorization, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470.

Where, in the judgment of the Commission, an undertaking will have an effect upon any listed district, site, building, structure, area, or object, the head of the appropriate State agency shall afford the Commission a reasonable opportunity to comment with regard to such undertaking.

The Historical Commission shall act with reasonable diligence to insure that all State departments, boards, commissions, or agencies potentially affected by the provisions of this section be kept currently informed with respect to the name, location, and other significant particulars of any district, site, building, structure, or object listed or placed upon the National Register of Historic Places. Each affected State department or agency shall furnish, either upon its own initiative or at the request of the Historical Commission such information as may reasonably be required by the Commission for the proper implementation of this section.

(b) Criteria for State Historic Properties. — The Commission shall prepare and adopt criteria for the evaluation of State historic sites and all other real and personal property which it may consider to be of such historic, architectural, archaeological, or cultural importance as would justify the acquisition and ownership thereof by the State of North Carolina, or for the extension of any assistance or aid thereto by the State, acting by itself or in connection with any county, city, corporation, organization, or individual. The Commission shall cooperate to the fullest practical extent with any local historical organization and with any city or county historic district properties commission. In evaluating whether a building should be a State historic site, the Commission shall request and review plans for the use and maintenance of the building.

(c) Criteria for State Aid to Historic Properties. — The Commission shall also prepare and adopt criteria for the evaluation of all properties of historic or archaeological importance owned by, under option to, or being considered for acquisition by a county, city, historic properties commission, or other organization or individual for which State aid or assistance is requested from the Department of Cultural Resources. The Commission shall investigate, evaluate, and prepare a written report on all historic or archaeological property for which State aid or appropriations to be administered by the Department of Cultural Resources are proposed. If the property is a building, the Commission shall request and review the plans for the use, maintenance, operation, and purpose of the building and shall comment on the feasibility of the plans in the written report. This report, which shall be filed as a matter of record in the custody of the Department of Cultural Resources, shall set forth the following opinions or recommendations of the Commission:

(1) Whether the property is historically authentic;
(2) Whether it is of such educational, historical, or cultural significance as to be essential to the development of a balanced State program of historic and archaeological sites and properties;
(3) The estimated total cost of the project under consideration and the apportionment of said cost among State and nonstate sources;
(4) Whether practical plans have been or can be developed for the funding of the nonstate portion of the costs;
(5) Whether practical plans have been developed for the continued staffing, maintenance and operation of the property without State assistance; and
(6) Such further comments and recommendations that the Commission may make.

(c1) Criteria for State Aid to Historical Museums. — The Commission shall also prepare and adopt criteria for the evaluation of all interpretive, security or climate control programs or projects to be installed in nonprofit history museums for which State aid or assistance is requested from the Department of Cultural Resources. The Commission shall investigate, evaluate, and prepare a written report on all interpretive, security, or climate control programs or projects for which State appropriations to be administered by the Department of Cultural Resources are proposed. This report, which shall be filed as a matter of record in the custody of the Department of Cultural Resources, shall set forth the following opinions or recommendations of the Commission:

(1) The statewide educational significance and the qualitative level of the program or project and whether the program or project is essential to the development of a State program of historical interpretation;
(2) The local or regional need for such a program or project;
(3) The estimated total cost of the program or project under consideration and the apportionment of said cost among State and nonstate sources;

(4) Whether practical plans have been or can be developed for the funding of the nonstate portions of the costs;
(5) Whether practical plans have been developed for the continued staffing, maintenance, and operating of the museum without State assistance; and
(6) Such further comments and recommendations that the Commission may make.

(d) Commission to Furnish Recommendations to Legislative Committees. — The Commission through the Department of Cultural Resources shall furnish as soon as practicable to the chairman of each legislative committee to which is referred any bill seeking an appropriation of State funds to the Department of Cultural Resources for the purpose of acquiring, preserving, restoring, or operating, or otherwise assisting, any property having historic, archaeological, architectural, or other cultural value or significance, and to the chairman of each legislative committee to which is referred any bill seeking an appropriation of State funds to the Department of Cultural Resources for the purpose of assisting a history museum, at least five copies of a report on the findings and recommendations of the Commission relating to such property. (1973, c. 476, s. 48; 1975, c. 19, s. 40; 1979, c. 861, ss. 3-5; 1985 (Reg. Sess., 1986), c. 1014, s. 171(b); 1995, c. 324, s. 12.)

Editor's Note. — Session Laws 1995, c. 324, s. 1.1, provides: "This act shall be known as the Continuation Budget Operations Appropriations Act of 1995."

Session Laws 1995, c. 324, s. 28.3, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1995-97 biennium, the textual provisions of this act shall apply only to funds appropriated for and activities occurring during the 1995-97 biennium."

Session Laws 1995, c. 324, s. 28.4 is a severability clause.

Effect of Amendments. — The 1995 amendment, effective July 1, 1995, added the last sentence in subsection (b), and added the third sentence in subsection (c).

ARTICLE 4.

Conservation and Historic Preservation Agreements Act.

§ 121-35. Definitions.

Subject to any additional definitions contained in this Article, or unless the context otherwise requires:
(1) A "conservation agreement" means a right, whether or not stated in the form of a restriction, reservation, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land or improvement thereon or in any order of taking, appropriate to retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, horticultural, farming or forest use, to forbid or limit any or all (i) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground, (ii) dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials, (iii) re-

moval or destruction of trees, shrubs or other vegetation, (iv) excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, (v) surface use except for agricultural, farming, forest or outdoor recreational purposes or purposes permitting the land or water area to remain predominantly in its natural condition, (vi) activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or (vii) other acts or uses detrimental to such retention of land or water areas.

(2) "Holder" means any public body of this State, including the State, any of its agencies, any city, county, district or other political subdivision or municipal or public corporation, or any instrumentality of any of the foregoing, any agency, department, or instrumentality of the United States, any nonprofit corporation or trust, or any private corporation or business entity whose purposes include any of those stated in (1) and (3), covering the purposes of preservation and conservation agreements.

(3) A "preservation agreement" means a right, whether or not stated in the form of a restriction, reservation, easement, covenant, condition or otherwise, in any deed, will or other instrument executed by or on behalf of the owner of the land or any improvement thereon, or in any other [order] of taking, appropriate to preservation of a structure or site historically significant for its architecture, archaeology or historical associations, to forbid or limit any or all (i) alteration, (ii) alterations in exterior or interior features of the structure, (iii) changes in appearance or condition of the site, (iv) uses not historically appropriate, or (v) other acts or uses supportive of or detrimental to appropriate preservation of the structure or site. (1979, c. 747, s. 2; 1995, c. 443, s. 1.)

Editor's Note. — Session Laws 1995, c. 443, s. 2, effective July 18, 1995, provides for the validation and confirmation of any conservation agreement or preservation agreement entered into by an agency, department, or instrumentality of the United States on or after June 1, 1979, and prior to the effective date of that act, July 18, 1995.

Effect of Amendments. — The 1995 amendment, effective July 18, 1995, added "any agency, department, or instrumentality of the United States" in subdivision (2).

Chapter 122A.

North Carolina Housing Finance Agency.

Sec.
122A-5.13. Adult Care Home, Group Home, and Nursing Home Fire Protection Fund authorized; authority.

§ 122A-5.13. Adult Care Home, Group Home, and Nursing Home Fire Protection Fund authorized; authority.

(a) The North Carolina Housing Finance Agency shall establish an Adult Care Home, Group Home, and Nursing Home Fire Protection Fund (hereinafter "Fire Protection Fund") to assist owners of adult care homes, group homes for developmentally disabled adults, and nursing homes with the purchase and installation of fire protection systems in existing and new adult care homes, group homes for developmentally disabled adults, and nursing homes. The Fire Protection Fund shall be a revolving fund.

(b) The Agency, in consultation with the Department of Human Resources, shall adopt rules for the management and use of the Fire Protection Fund. These rules at a minimum shall provide for the following:

(1) Financial incentives for owners of facilities who utilize Fire Protection Fund monies to install sprinkler systems instead of smoke detection equipment.
(2) Maximum loan amounts of one dollar and seventy-five cents ($1.75) per square foot for advanced smoke detectors and digital communication equipment, three dollars and seventy-five cents ($3.75) per square foot for residential sprinkler systems, and six dollars ($6.00) per square foot for institutional sprinkler systems.
(3) Interest rates from three percent (3%) to six percent (6%) for a period not to exceed 20 years for sprinkler systems and 10 years for smoke detection systems.
(4) Documentary verification that owners of facilities obtain fire protection systems at a reasonable cost.
(5) Acceleration of a loan when statutory fire protection requirements are not met by the facility for which the loan was made.
(6) Loan approval priority criteria that considers the frailty level of residents at a facility.
(7) Loan origination and servicing fees. (1996, 2nd Ex. Sess., c. 18, s. 24.26B(a).)

Editor's Note. — Session Laws 1996, Second Extra Session, c. 18, s. 29.6, made this section effective July 1, 1996.

Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Session Laws 1996, Second Extra Session, c. 18, s. 24.26B, provides that proceeds from the Fire Protection Fund may be used to provide staff support to the North Carolina Housing Finance Agency for loan processing and to the Department of Human Resources for review and approval of fire protection plans and inspections of fire protection systems; that the North Carolina Housing Finance Agency shall adopt temporary rules to implement this section by October 1, 1996; and provides for a transfer of funds to fund the Fire Protection Fund.

Session Laws 1996, Second Extra Session, c. 18, s. 29.2, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1996-97 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1996-97 fiscal year."

Chapter 122C.

Editor's Note. — The legislation and annotations affecting Chapter 122C have been included in a recently published replacement chapter.

Chapter 122D.

North Carolina Agricultural Finance Act.

Sec.
122D-4. North Carolina Agricultural Finance Authority.
122D-6. General powers of Authority.
122D-14. Exemption from taxes.

§ 122D-1. Short title.

Editor's Note. —

Session Laws 1993, c. 561, s. 97 amended Session Laws 1985, c. 1011, s. 3 to read: "Funds appropriated to the Department of Agriculture, Reserve for Farm Loans shall be used for the purposes set out in this act, other than the administration of Chapter 122D of the General Statutes. Interest on these funds and interest received from loans of these funds may be used for any of the purposes set out in this act, including the administration of Chapter 122D of the General Statutes."

Session Laws 1993, c. 561, s. 23.1, as added by Session Laws 1994, Extra Session, c. 24, s. 54, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1993-95 biennium, the textual provisions of this act shall apply only to funds appropriated for and activities occurring during the 1993-95 biennium."

§ 122D-4. North Carolina Agricultural Finance Authority.

(a) The North Carolina Agricultural Finance Authority, a body politic and corporate, is hereby created within the Department of Agriculture. The Authority shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions.

(b) The Authority shall be composed of 10 members. The Commissioner shall serve ex officio, with the same rights and privileges, including voting rights, as other members. The other nine members shall be appointed in the following manner:

(1) Three members appointed by the General Assembly upon the recommendation of the Speaker of the House under G.S. 120-121;
(2) Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate under G.S. 120-121; and
(3) Three members appointed by the Governor.

(c) Members shall serve for three-year terms. Initial terms shall commence July 1, 1986. Appointed members shall serve until their successors are appointed and qualify.

(d) Vacancies in the offices of any appointed members of the Authority shall be filled in accordance with G.S. 120-122 for the remainder of the unexpired term. No vacant office shall be included in the determination of a quorum. No vacancy in office shall impair the rights of the members to exercise all rights and to conduct official business of the Authority.

(e) The domicile of the Authority shall be the City of Raleigh.

(f) A majority of the members shall constitute a quorum for the transaction of official business. All official actions of the Authority shall require an affirmative vote of a majority of the members present and voting at any meeting.

(g) Members of the Authority shall not receive any salary for the performance of their duties as members. Appointed members may be reimbursed for such actual expenses as may be incurred for travel and subsistence in the performance of official duties and such per diem as is allowed by law for members of other State boards, commissions and committees.

(h) The Authority shall meet quarterly and may meet more frequently upon call.

(i) The Authority may delegate to one or more of its members, officers, employees or agents such powers and duties as it may deem proper. (1983, c. 789, s. 1; 1985, c. 583, s. 2; 1985 (Reg. Sess., 1986), c. 1011, s. 1; 1989 (Reg. Sess., 1990), c. 1074, s. 32(b); 1995, c. 490, s. 4.)

Editor's Note. — Session Laws 1995, c. 490, which amended this section, in s. 65 provides: "This act applies with respect to terms beginning on or after January 1, 1997, and to vacancies occurring on or after that date regardless of the date the term began."

Effect of Amendments. — The 1995 amendment added "Pro Tempore" in subdivision (b)(2). For the applicability of this amendment, see editor's note.

§ 122D-6. General powers of Authority.

The Authority shall have all the powers necessary to give effect to and carry out the purposes and provisions of this Chapter, including the following powers in addition to all other powers granted by other provisions of this Chapter, to:

(1) Sue and be sued in its own name and in the name of any subsidiary corporation or entity which may be created pursuant to paragraph (19) of this section;

(2) Have a seal and alter the same at its pleasure;

(3) Adopt bylaws for the internal organization and government of the Authority;

(4) Adopt, promulgate and amend rules for the administration of the Chapter;

(4a) Limit the definition of agricultural loan under G.S. 122D-3(1);

(5) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this Chapter with any federal or State governmental agency, public or private corporation, lending institution or other entity or person, and each and any North Carolina governmental agency is hereby authorized to enter into contracts and otherwise cooperate with the agency to facilitate the purposes of this Chapter;

(6) Accept, administer and expend donations of movable or immovable property from any source, and receive, administer and expend appropriations from the legislature and financial assistance, guarantees, insurance or subsidies from the federal or State government;

(7) Subject to the rights of holders of bonds of the Authority, to renegotiate, refinance or foreclose on any mortgage, security interest or lien; or commence any action to protect or enforce any right or benefit conferred upon the Authority by any law, mortgage, security interest, lien, contract or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take

possession of any property; and in any such event, the Authority may complete, administer, pay the principal of and interest on any obligation incurred in connection with such property, dispose of and otherwise deal with such property in such manner as may be necessary or desirable to protect the interest of the Authority or of holders of its bonds therein;

(8) Procure or provide for the procurement of insurance or reinsurance against any loss in connection with its property or operations, including but not limited to insurance, reinsurance or other guarantees from any federal or State governmental agency or private insurance company for the payment of any bonds issued by the Authority, or bond, notes or any other obligations or evidences of indebtedness issued or made by any subsidiary corporation or entity created pursuant to subdivision (19) of this section or by any lending institution or other entity or person, or insurance or reinsurance against loss with respect to agricultural loans, mortgages or mortgage loans, or any other type of loans, including the power to pay premiums on such insurance or reinsurance;

(9) Make, insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured, agricultural loans, mortgage loans or mortgages, or any other type of loans and pay or receive premiums on such insurance, coinsurance or reinsurance, and establish reserves for losses, and participate in the insurance, coinsurance or reinsurance of agricultural loans, mortgage loans or mortgages, or any other type of loans with the federal or State government or any private insurance company;

(10) Undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the State and needs relating to the promotion of agricultural exports and ways of meeting such needs, and make such studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports;

(11) Accept federal, State or private financial or technical assistance and comply with any conditions for such assistance, provided such conditions are not in conflict with the intent of this Chapter;

(12) Establish, pay and collect fees and charge in connection with its loans, deposits, insurance commitments and services, including but not limited to, reimbursement of costs of issuing bonds, origination and servicing fees, and insurance premiums;

(13) Make loans to or deposits with lending institutions and purchase or sell agricultural loans;

(14) Acquire or contract to acquire from any person, firm, corporation, municipality, federal or State agency, by grant, purchase or otherwise, movable or immovable property or any interest therein; own, hold, clear, improve, lease, construct or rehabilitate, and sell, invest, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber the same, subject to the rights of holders of the

bonds of the Authority, at public or private sale, with or without public bidding;

(15) Borrow money, issue bonds, and provide for the rights of the lenders or holders thereof and purchase, discount, sell, negotiate and guarantee, insure, coinsure and reinsure note, drafts, checks, bills of exchange, acceptances, bankers acceptances, cable transfers, letters of credit and other evidence of indebtedness with or without credit enhancement devices;

(16) Subject to the rights of holders of the bonds of the Authority, consent to any modification with respect to the rate of interest, time, payment of any installment of principal or interest, security or any other term or condition of any loan, contract, mortgage, mortgage loan or commitment therefor or agreement of any kind to which the Authority is a party or beneficiary;

(17) Maintain an office at such place or places as the Authority shall determine;

(18) Serve as the beneficiary of any public trust;

(19) After reporting to the agriculture committees of the House of Representatives and the Senate, to create such subsidiary corporations or entities as may be necessary to borrow money, insure or reinsure agricultural loans, or issue bonds in the international financial market; and

(20) Purchase or participate in the purchase and enter into commitments by itself or together with others for the purchase of federally issued securities; provided that the proceeds of such securities will be utilized in accordance with the provisions of this Chapter. (1983, c. 789, s. 1; 1985 (Reg. Sess., 1986), c. 1011, s. 1; 1987, c. 112, s. 4; 1989 (Reg. Sess., 1990), c. 1000, s. 1; c. 1074, s. 32(b); 1993, c. 553, ss. 37, 38.)

§ 122D-14. Exemption from taxes.

The exercise of the powers granted by this Chapter will be in all respects for the benefit of the people of the State, for their well-being and prosperity and for the improvement of their social and economic conditions, and the Authority shall not be required to pay any tax or assessment on any property owned by the Authority under the provisions of this Chapter or upon the income therefrom.

Any obligations issued by the Authority under the provisions of this Chapter shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift taxes, income taxes on the gain from the transfer of the obligations, and franchise taxes. The interest on the obligations is not subject to taxation as income. (1985 (Reg. Sess., 1986), c. 1011, s. 1; 1989 (Reg. Sess., 1990), c. 1000, s. 1; 1995, c. 46, s. 11.)

Effect of Amendments. — The 1995 amendment, effective July 1, 1995, and applicable to obligations issued on or after that date, in the second paragraph, in the first sentence, deleted "their transfer and the income therefrom (including any profit made on the sale thereof)" following "Chapter" and added "income taxes on the gain from the transfer of the obligations, and franchise taxes" to the end, and added the last sentence.

Chapter 122E.

North Carolina Housing Trust and Oil Overcharge Act.

Sec.
122E-4. North Carolina Housing Partnership created; compensation; organization.

§ 122E-4. North Carolina Housing Partnership created; compensation; organization.

(a) The North Carolina Housing Partnership is hereby created within the North Carolina Housing Finance Agency to establish policy, promulgate rules and regulations, and oversee the operation of the Fund. The Partnership shall be constituted to coordinate private enterprise and investment with public efforts to address the serious shortage of decent, safe, and affordable housing for low and moderate income citizens of this State.

(b) The Partnership shall consist of 13 members as follows:

(1) The Executive Director of the North Carolina Housing Finance Agency shall serve ex officio;

(2) The Secretary of the Department of Commerce or his designee shall serve ex officio;

(3) The State Treasurer or his designee shall serve ex officio;

(4) In accordance with G.S. 120-121, five members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, provided that one member shall be a representative of the homebuilding industry, one member shall be a low income housing advocate, and one member shall be a representative of the League of Municipalities;

(5) In accordance with G.S. 120-121, five members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, provided that one member shall be a representative of the real estate lending industry; one member shall be a representative of a non-profit housing development corporation; and one member shall be a resident of low income housing.

The members of the Partnership shall elect one of their members to serve as Chairman for a term of one year. Seven members of the Partnership shall constitute a quorum. All members shall have the right to vote on all issues before the Partnership.

(c) Members of the Partnership shall serve for three year terms. Initial terms shall begin on September 1, 1987. Appointed members shall serve until their successors are appointed and qualify.

(d) Vacancies in the offices of any appointed members shall be filled in accordance with G.S. 120-122 for the remainder of the unexpired term. No vacant office shall be included in the determination of a quorum. No vacancy in office shall impair the rights of the members to exercise all rights and conduct the official business of the Partnership.

(e) Members of the Partnership shall receive as compensation for each day spent on work for the Partnership such actual expenses as may be incurred for such travel and subsistence in the performance of official duties and such per diem as is allowed by law for other such State boards and commissions. Members shall not receive a salary for the performance of their duties as members.

(f) The Partnership shall have the following powers and duties:

(1) To promulgate rules and regulations governing all policy matters relating to the implementation of all programs for uses of the Fund and the Partnership's oversight of the Agency's administration of the Fund.

(2) To promote the development of a coordinated State low income housing plan.

(3) To obtain necessary information from other State agencies concerning housing; and

(4) To allocate monies contained in the Fund.

(g) The Partnership may appoint an Executive Director. The Executive Director shall be empowered to employ such additional professional and clerical assistance as the Partnership may deem necessary to administer the provisions of this Chapter. All employees of the Partnership, other than the Executive Director, shall be compensated in accordance with the salary schedules adopted pursuant to the State Personnel Act. The Partnership and the Agency may enter into agreements for the use of Agency staff to assist the Partnership and the provision of administrative support for the Partnership by the Agency.

(h) The Partnership shall meet quarterly and can meet more regularly upon the call of the Chairman or upon written request of four members.

(i) Members of the Partnership may not receive any direct benefit from, or participate in, the programs of the Fund. Members of the Partnership may be employed by, or serve as a board member of, a nonprofit entity participating in a program of the Fund if the member discloses the employment or the membership in the minutes of the Partnership and does not vote on any matter pertaining to the entity's participation. This policy applies to:

(1) Individual members of the Partnership;

(2) Businesses, corporations, or partnerships owned in whole or in part by members of the Partnership; and

(3) The immediate family members of the members of the Partnership. (1987, c. 841, s. 1; 1989, c. 727, s. 223(c); c. 751, ss. 7(12), 9(c); c. 754, s. 53; 1991 (Reg. Sess., 1992), c. 959, s. 31; 1995, c. 490, s. 25.)

Editor's Note. — Session Laws 1989, c. 751, s. 16, effective July 1, 1989, repealed Session Laws 1989, c. 727, s. 218(84), which would have substituted "Environment, Health and Natural Resources" for "Natural Resources and Community Development" in this section.

Session Laws 1995, c. 490, which amended this section, in s. 65 provides: "This act applies with respect to terms beginning on or after January 1, 1997, and to vacancies occurring on or after that date regardless of the date the term began."

Effect of Amendments. — The 1995 amendment added "Pro Tempore" in subdivision (b)(4). For the applicability of this amendment, see editor's note.

Chapter 125.

Libraries.

Article 1.

State Library Agency.

Sec.
125-11. Failure to return books.

Article 1A.

State Depository Library System.

Sec.
125-11.12. [Repealed.]

ARTICLE 1.

State Library Agency.

§ 125-11. Failure to return books.

Any person who shall fail to return any book, periodical, or other material withdrawn by him from the Library shall be guilty of a Class 3 misdemeanor if he shall fail to return the borrowed material within 30 days after receiving a notice from the State Librarian that the material is overdue. The provisions of this section shall not be in effect unless a copy of this section is attached to the overdue notice by the State Librarian. (1955, c. 505, s. 3; 1993, c. 539, s. 929; 1994, Ex. Sess., c. 24, s. 14(c).)

Editor's Note. — Session Laws 1993, c. 539, s. 929, which amended this section, in s. 1359, as amended by Session Laws 1994, Extra Session, c. 24, s. 14(c), provides: "This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions."

ARTICLE 1A.

State Depository Library System.

§ 125-11.12: Repealed by Session Laws 1993, c. 447, s. 1, effective July 22, 1993.

Chapter 126.

State Personnel System.

Article 1.

State Personnel System Established.

Sec.
126-5. Employees subject to Chapter; exemptions.

Article 1.

State Personnel System Established.

§ 126-1. Purpose of Chapter; application to local employees.

CASE NOTES

Stated in Gray v. Laws, 915 F. Supp. 747 (E.D.N.C. 1994).

§ 126-4. Powers and duties of State Personnel Commission.

CASE NOTES

Quoted in North Carolina Dep't of Cors. v. Harding, 120 N.C. App. 451, 462 S.E.2d 671 (1995).

Cited in North Carolina Dep't of Cors. v. Myers, 120 N.C. App. 437, 462 S.E.2d 824 (1995).

§ 126-5. Employees subject to Chapter; exemptions.

(a) The provisions of this Chapter shall apply to:

(1) All State employees not herein exempt, and

(2) To all employees of the following local entities:

a. Area mental health, developmental disabilities, and substance abuse authorities.

b. Local social services departments.

c. Local public health departments.

d. Local emergency management agencies that receive federal grant-in-aid funds.

An employee of a consolidated county human services agency created pursuant to G.S. 153A-77(b) is not considered an employee of an entity listed in this subdivision.

(3) County employees not included under subdivision (2) of this subsection as the several boards of county commissioners may from time to time determine.

(b) As used in this section, "policymaking position" means a position delegated with the authority to impose the final decision as to a settled course of action to be followed within a department, agency, or division.

(c) Except as to the policies, rules, and plans established by the Commission pursuant to G.S. 126-4(1), 126-4(2), 126-4(3), 126-4(4), 126-4(5), 126-4(6), and 126-7, and except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

(1) A State employee who is not a career State employee as defined by this Chapter.
(2) One confidential assistant and two confidential secretaries for each elected or appointed department head and one confidential secretary for each chief deputy or chief administrative assistant.
(3) Employees in policymaking positions designated as exempt pursuant to G.S. 126-5(d).
(4) The chief deputy or chief administrative assistant to the head of each State department who is designated either by statute or by the department head to act for and perform all of the duties of such department head during his absence or incapacity.

(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

(1) Constitutional officers of the State.
(2) Officers and employees of the Judicial Department.
(3) Officers and employees of the General Assembly.
(4) Members of boards, committees, commissions, councils, and advisory councils compensated on a per diem basis.
(5) Officials or employees whose salaries are fixed by the General Assembly, or by the Governor, or by the Governor and Council of State, or by the Governor subject to the approval of the Council of State.
(6) Employees of the Office of the Governor that the Governor, at any time, in his discretion, exempts from the application of the provisions of this Chapter by means of a letter to the State Personnel Director designating these employees.
(7) Employees of the Office of the Lieutenant Governor, that the Lieutenant Governor, at any time, in his discretion, exempts from the application of the provisions of this Chapter by means of a letter to the State Personnel Director designating these employees.
(8) Instructional and research staff, physicians, and dentists of The University of North Carolina.
(9) Employees whose salaries are fixed under the authority vested in the Board of Governors of The University of North Carolina by the provisions of G.S. 116-11(4), 116-11(5), and 116-14.
(10) Repealed by Session Laws 1991, c. 84, s. 1.
(11) North Carolina School of Science and Mathematics' employees whose salaries are fixed in accordance with the provisions of G.S. 116-235(c)(1) and G.S. 116-235(c)(2).
(12) Employees of the North Carolina Low-Level Radioactive Waste Management Authority whose salaries are fixed pursuant to G.S. 104G-5(g)(1) and G.S. 104G-5(g)(2).
(13) Employees of the North Carolina Hazardous Waste Management Commission whose salaries are fixed pursuant to G.S. 130B-6(g)(1) and G.S. 130B-6(g)(2).

(14) Employees of the North Carolina State Ports Authority.
(15) Employees of the North Carolina Global TransPark Authority.
(16) The executive director and one associate director of the North Carolina Center for Nursing established under Article 9F of Chapter 90 of the General Statutes.

(c2) The provisions of this Chapter shall not apply to:
(1) Public school superintendents, principals, teachers, and other public school employees.
(2) Recodified as G.S. 126-5(c)(4) by Session Laws 1985 (Regular Session, 1986), c. 1014, s. 41.
(3) Employees of community colleges whose salaries are fixed in accordance with the provisions of G.S. 115D-5 and G.S. 115D-20, and employees of the Department of Community Colleges whose salaries are fixed by the State Board of Community Colleges in accordance with the provisions of G.S. 115D-3.

(c3) Except as to the policies, rules, and plans established by the Commission pursuant to G.S. 126-4(5) and the provisions of Article 6 of this Chapter, the provisions of this Chapter shall not apply to: Teaching and related educational classes of employees of the Department of Correction, the Department of Human Resources, and any other State department, agency or institution, whose salaries shall be set in the same manner as set for corresponding public school employees in accordance with Chapter 115C of the General Statutes.

(c4) Repealed by Session Laws 1993, c. 321, s. 145(b), effective January 1, 1994.

(c5) Notwithstanding any other provision of this Chapter, Article 14 of this Chapter shall apply to all State employees, public school employees, and community college employees.

(d)(1) General. — The Governor may designate as exempt policymaking positions, as provided below, in each of the following departments:
a. Department of Administration;
b. Department of Commerce;
c. Department of Correction;
d. Department of Crime Control and Public Safety;
e. Department of Cultural Resources;
f. Department of Human Resources;
g. Department of Environment, Health, and Natural Resources;
h. Department of Revenue; and
i. Department of Transportation.

The Secretary of State, the Auditor, the Treasurer, the Attorney General, the Commissioner of Agriculture, the Commissioner of Insurance, and the Labor Commissioner may designate as exempt policymaking positions, as provided below, in their respective offices. The State Board of Education may designate as exempt policymaking positions, as provided below, in the Department of Public Instruction.

(2) Number. — The number of policymaking positions designated as exempt in each department or office listed in subsection (d)(1), except the Department of Commerce, shall be limited to one and two-tenths percent (1.2%) of the

number of full-time positions in the department or office, or 30 positions, whichever is greater. The Governor may designate 85 policymaking positions as exempt in the Department of Economic and Community Development. Provided, however, that the Governor, elected department head, or State Board of Education may request that additional policymaking positions be designated as exempt. The request shall be made by sending a list of policymaking positions that exceed the limit imposed by this subsection to the Speaker of the North Carolina House of Representatives and the President of the North Carolina Senate. A copy of the list also shall be sent to the State Personnel Director. The General Assembly may authorize all, or part of, the additional policymaking positions to be designated as exempt. If the General Assembly is in session when the list is submitted and does not act within 30 days after the list is submitted, the list shall be deemed approved by the General Assembly, and the policymaking positions shall be designated as exempt. If the General Assembly is not in session when the list is submitted, the 30-day period shall not begin to run until the next date that the General Assembly convenes or reconvenes, other than for a special session called for a specific purpose not involving the approval of the list of additional positions to be designated as exempt; the policymaking positions shall not be designated as exempt during the interim.

(3) Letter. — These positions shall be designated in a letter to the State Personnel Director, the Speaker of the House of Representatives, and the President of the Senate by May 1 of the year in which the oath of office is administered to each Governor unless the provisions of subsection (d)(4) apply.

(4) Vacancies. — In the event of a vacancy in the Office of Governor or in the office of a member of the Council of State, the person who succeeds to or is appointed or elected to fill the unexpired term shall make such designations in a letter to the State Personnel Director, the Speaker of the House of Representatives, and the President of the Senate within 120 days after the oath of office is administered to that person. In the event of a vacancy in the Office of Governor, the State Board of Education shall make these designations in a letter to the State Personnel Director, the Speaker of the House of Representatives, and the President of the Senate within 120 days after the oath of office is administered to the Governor.

(5) Creation, Transfer, or Reorganization. — The Governor, elected department head, or State Board of Education may designate as exempt a policymaking position that is created or transferred to a different department, or is located in a department in which reorganization has occurred, after May 1 of the year in which the oath of office is administered to the Governor. The designation must be made in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate within 120 days after such position is created, transferred, or in which reorganization has occurred.

(6) Reversal. — Subsequent to the designation of a policymaking position as exempt as hereinabove provided, the status of the position may be reversed and made subject to the provisions of this Chapter by the Governor, by an elected department head, or by the State Board of Education in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate.

(7) Hearing Officers. — Except as otherwise specifically provided by this section, no employee, by whatever title, whose primary duties include the power to conduct hearings, take evidence, and enter a decision based on findings of fact and conclusions of law based on statutes and legal precedents shall be designated as exempt. This subdivision shall apply beginning July 1, 1985, and no list submitted after that date shall designate as exempt any employee described in this subdivision.

(e) An exempt employee may be transferred, demoted, or separated from his position by the department head authorized to designate the exempt position except:

(1) When an employee who has the minimum service requirements described in subsection (c)(1) above but less than 10 years of cumulative service in subject positions prior to placement in an exempt position is removed from an exempt position, for reasons other than just cause, the employee shall have priority to any position that becomes available for which the employee is qualified, according to rules and regulations regulating and defining priority as promulgated by the State Personnel Commission; or

(2) When an employee who has 10 years or more cumulative service, including the immediately preceding 12 months, in subject positions prior to placement in an exempt position is removed from an exempt position, for reasons other than just cause, the employee shall be reassigned to a subject position within the same department or agency, or if necessary within another agency, and within a 35 mile radius of the exempt position, at the same grade and salary, including all across-the-board increases since placement in the position designated as exempt, as his most recent subject position.

(f) A department head is authorized to use existing budgeted positions within his department in order to carry out the provisions of subsection (e) of this section. If it is necessary to meet the requirements of subsection (e) of this section, a department head may use salary reserve funds authorized for his department.

(g) No employee shall be placed in an exempt position without 10 working days prior written notification that such position is so designated. A person applying for a position that is designated as exempt must be notified in writing at the time he makes the application that the position is designated as exempt.

(h) In case of dispute as to whether an employee is subject to the provisions of this Chapter, the dispute shall be resolved as provided in Article 3 of Chapter 150B. (1965, c. 640, s. 2; 1967, c. 24, s. 20; cc. 1038, 1143; 1969, c. 982; 1971, c. 1025, s. 2; 1973, c. 476, s. 143; 1975, c. 667, ss. 8, 9; 1977, c. 866, ss. 2-5; 1979, 2nd Sess., c. 1137, s. 40; 1983, c. 717, s. 41; c. 867, s. 2; 1985, c. 589, s. 38; c. 617, s. 1; c. 757,

s. 206(c); 1985 (Reg. Sess., 1986), c. 955, s. 43; c. 1014, ss. 41, 235; c. 1022, s. 9; 1987, c. 320, s. 4; c. 395, s. 1; c. 809, s. 1; c. 850, s. 19; 1987 (Reg. Sess., 1988), c. 1064, s. 3; 1989, c. 168, s. 9; c. 236, s. 3; c. 484; c. 727, s. 218(85); c. 751, s. 7(13); 1991, c. 65, s. 2; c. 84, ss. 1, 2; c. 354, s. 3; c. 749, s. 4; 1991 (Reg. Sess., 1992), c. 879, s. 5; c. 959, s. 85; 1993, c. 145, s. 1; c. 321, s. 145(b); c. 553, ss. 39, 40; 1993 (Reg. Sess., 1994), c. 777, s. 4(g); 1995, c. 141, ss. 3, 5; c. 393, s. 1; 1995 (Reg. Sess., 1996), c. 690, s. 15.)

Effect of Amendments. —
The 1995 (Reg. Sess., 1996) amendment, effective July 1, 1996, rewrote subdivision (a)(2); added the subdivision (a)(3) designation; and substituted "County employees not included under subdivision (2) of this subsection" for "employees" in subdivision (a)(3).

CASE NOTES

This section controls which employees are subject to Chapter 126. Conran v. New Bern Police Dep't, 122 N.C. App. 116, 468 S.E.2d 258 (1996).

Not All Local Government Employees Covered. —
The legislature did not intend for local city or county employees to be included in the class of persons protected by Chapter 126. Conran v. New Bern Police Dep't, 122 N.C. App. 116, 468 S.E.2d 258 (1996).

ARTICLE 2.

Salaries, Promotions, and Leave of State Employees.

§ 126-7. Compensation of State employees.

Editor's Note. —
Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 28.18 provides in part that the Study Commission on the Comprehensive Compensation is created. The Commission shall evaluate the compensation system established in Article 2 of Chapter 126 of the General Statutes and determine a methodology for funding the pay plan for State employees at varying levels of appropriations to fund State pay increases. The Commission shall submit a final report of its findings and recommendations to the General Assembly on or before the first day of the 1997 Session and upon filing its final report, the Commission shall terminate.

Session Laws 1996, Second Extra Session, c. 18, s. 29.2, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1996-97 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1996-97 fiscal year."

§ 126-7.1. Posting requirement; State employees receive priority consideration; reduction-in-force rights.

CASE NOTES

Priority Consideration. — Where nurse was a state employee who applied for a supervisory nursing position of state employment, and there was substantial evidence to support the finding that petitioner's qualifications were "substantially equal" to the non-state employee applicant, the State Personnel

Commission did not err in applying the state employee priority consideration provision. Dockery v. North Carolina Dep't of Human Resources, 120 N.C. App. 827, 463 S.E.2d 580 (1995).

ARTICLE 6.

Equal Employment and Compensation Opportunity; Assisting in Obtaining State Employment.

§ 126-16. Equal opportunity for employment and compensation by State departments and agencies and local political subdivisions.

CASE NOTES

Quoted in Conran v. New Bern Police Dep't, 122 N.C. App. 116, 468 S.E.2d 258 (1996).

ARTICLE 7.

The Privacy of State Employee Personnel Records.

§ 126-22. Personnel files not subject to inspection under § 132-6.

CASE NOTES

Breach of Confidentiality Not Shown. — There was insufficient evidence to show that employee "breached confidentiality" or that he "failed to provide complete responses to questions" causing the "omission of important facts" at officer's disciplinary hearing where the record showed that his comments were directed towards the handling of the pre-disciplinary conference for not being conducted behind closed doors and for being conducted rudely and loudly. These comments were not breaches of confidentiality, but rather criticisms of the manner and method of conducting pre-disciplinary hearings. North Carolina Dep't of Cors. v. Myers, 120 N.C. App. 437, 462 S.E.2d 824 (1995).

ARTICLE 8.

Employee Appeals of Grievances and Disciplinary Action.

§ 126-35. Just cause; disciplinary actions for State employees.

CASE NOTES

Burden of Proof. — The State Personnel Commission was correct in requiring the Employment Security Commission to carry the burden of proving petitioner was terminated for just cause. Emp. Sec. Comm'n v. Peace, 122 N.C.

App. 313, 470 S.E.2d 63 (1996).

Failure to Show Just Cause. — The State Personnel Commission did not err in its conclusion that the Employment Security Commission failed to show "just cause" for its dismissal of petitioner. Emp. Sec. Comm'n v. Peace, 122 N.C. App. 313, 470 S.E.2d 63 (1996).

Procedural Safeguards. — Procedural safeguards within subsection (a) serve as a prophylactic protection against summary dismissal based on inadequate notice. Owen v. UNC-G Physical Plant, 121 N.C. App. 682, 468 S.E.2d 813 (1996).

Failure to include the specific names of the employee's accusers in her dismissal letter prejudiced her ability to fully prepare her appeal. Owen v. UNC-G Physical Plant, 121 N.C. App. 682, 468 S.E.2d 813 (1996).

Dismissal Upheld. —

Dismissal of State Bureau of Investigation (SBI) agent for failure to comply with five day deadline for SBI agents to file reports was reasonable where the rule was promulgated for the purpose of providing timely written reports to district attorneys, to aid in prosecution, and to enhance the credibility of the testimony of SBI agents and the rule also provided that for legitimate reasons, the five day requirement could be extended. Gainey v. North Carolina Dep't of Justice, 121 N.C. App. 253, 465 S.E.2d 36 (1996).

State Personnel Commissioner did not err in affirming dismissal based on warnings that occurred two years prior to the actual dismissal, especially when the earlier violations related to the very reasons for which the employee was dismissed. Gainey v. North Carolina Dep't of Justice, 121 N.C. App. 253, 465 S.E.2d 36 (1996).

Applied in King v. North Carolina DOT, 121 N.C. App. 706, 468 S.E.2d 486 (1996).

Cited in Soles v. City of Raleigh Civil Serv. Comm'n, 119 N.C. App. 88, 457 S.E.2d 746 (1995); Williams v. North Carolina Dep't of Economic & Community Dev., 119 N.C. App. 535, 458 S.E.2d 750 (1995); Gray v. Laws, 915 F. Supp. 747 (E.D.N.C. 1994).

§ 126-36. Appeal of unlawful State employment practice.

CASE NOTES

Cited in Booth v. North Carolina Dep't of Env't, Health & Natural Resources, 899 F. Supp. 1457 (E.D.N.C. 1995).

§ 126-36.1. Appeal to Personnel Commission by applicant for employment.

CASE NOTES

Intermittent employee of Employment Security Commission (ESC) had a right to appeal ESC's allegedly discriminatory action to the personnel commission. Clay v. Employment Sec. Comm'n, 340 N.C. 83, 457 S.E.2d 725 (1995).

Cited in Booth v. North Carolina Dep't of Env't, Health & Natural Resources, 899 F. Supp. 1457 (E.D.N.C. 1995).

§ 126-37. Personnel Commission to review Administrative Law Judge's recommended decision and make final decision.

CASE NOTES

Reinstatement Proper Though Not Identical. — Where employee was returned to the same pay grade and step as before his demotion even though the job was at a different location, he was properly reinstated. North Carolina Dep't of Cors. v. Myers, 120 N.C. App. 437, 462 S.E.2d 824 (1995).

Discretion of Personnel Commission. — Although this section authorizes the State Personnel Commission to reinstate an employee to the position from which he is removed and to order the transfer of an employee to whom it has been wrongfully denied, that authority is discretionary. North Carolina Dep't of Cors. v. Myers, 120 N.C. App. 437, 462 S.E.2d 824 (1995).

Quoted in Conran v. New Bern Police Dep't, 122 N.C. App. 116, 468 S.E.2d 258 (1996).

Stated in Gray v. Laws, 915 F. Supp. 747 (E.D.N.C. 1994).

§ 126-38. Time limit for appeals.

CASE NOTES

Stated in Clay v. Employment Sec. Comm'n, 340 N.C. 83, 457 S.E.2d 725 (1995).

§ 126-39. Scope of this Article.

CASE NOTES

An intermittent state employee is not an "employee", etc. — Petitioner, an intermittent state employee was not an "employee" for purposes of this chapter governing state personnel system which applies only to "career State employees" and which establishes the time limit for appeals, for employees and not applicants for employment like petitioner. Clay v. Employment Sec. Comm'n, 340 N.C. 83, 457 S.E.2d 725 (1995).

§ 126-41. Attorney and witness fees.

CASE NOTES

Cited in Williams v. North Carolina Dep't of Economic & Community Dev., 119 N.C. App. 535, 458 S.E.2d 750 (1995).

ARTICLE 14.

Protection for Reporting Improper Government Activities.

§ 126-84. Statement of policy.

CASE NOTES

Cited in Aune v. University of N.C., 120 N.C. App. 430, 462 S.E.2d 678 (1995).

§ 126-85. Protection from retaliation.

CASE NOTES

Retaliatory Firing Not Shown. — Where the evidence was that there were questions regarding the adequacy of plaintiff's performance, of which plaintiff had knowledge, even before his reports and the nonappointment was based on the plaintiff's inability to collaborate with others the evidence was simply too speculative to support a finding that the plaintiff's nonrenewal was in any way related to the report. Aune v. University of N.C., 120 N.C. App. 430, 462 S.E.2d 678 (1995).

Chapter 127A.

Militia.

Article 2.

General Administrative Officers.

Sec.
127A-19. Adjutant General.

Article 3.

National Guard.

127A-40. Pensions for the members of the North Carolina national guard.
127A-44. North Carolina National Guard Commendation Medal.
127A-44.1. North Carolina National Guard Achievement Medal.
127A-45. North Carolina National Guard State Active Duty Award.
127A-45.2A. North Carolina National Guard Outstanding Unit Award.
127A-45.5A. Other awards.
127A-50.1. Military judges.

Article 5.

State Defense Militia.

127A-81. State defense militia cadre.

Article 8.

Pay of Militia.

Sec.
127A-106. Paid by the State.

Article 10.

Care of Military Property.

127A-131. Unlawful conversion or willful destruction of military property.

Article 12.

General Provisions.

127A-151. Organizing company without authority.
127A-152. Placing name on muster roll wrongfully.

Article 15.

North Carolina National Guard Tuition Assistance Act of 1975.

127A-192. Definitions.
127A-193. Benefit.
127A-194. Eligibility.

ARTICLE 2.

General Administrative Officers.

§ 127A-19. Adjutant General.

The military head of the militia shall be the Adjutant General who shall hold the rank of major general. The Adjutant General shall be appointed by the Governor in his capacity as commander in chief of the militia, in consultation with the Secretary of Crime Control and Public Safety, and shall serve at the pleasure of the Governor. No person shall be appointed as Adjutant General who has less than five years' commissioned service in an active status in any component of the armed forces of the United States. The Adjutant General, while holding such office, may be a member of the active national guard or naval militia.

Subject to the approval of the Governor and in consultation with the Secretary, Department of Crime Control and Public Safety, the Adjutant General may appoint a deputy adjutant general for Army National Guard, an assistant adjutant general for Army National Guard, and an assistant adjutant general for Air National Guard, each of whom may hold the rank of brigadier general and who shall serve at the pleasure of the Governor. The assistant adjutant general for Army National Guard shall also serve in the military position of Brigadier General — Line, Deputy, State Area Command (STARC) Commander. The Adjutant General may also employ such staff members and other personnel as may be authorized by the Secretary and funded. (1917, c. 200, s. 14; C.S., s. 6802; 1925, c. 54; 1939, c. 14; 1949, c. 1225; 1959, c. 218, s. 2; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 1979, c. 481; 1995, c. 122, s. 1.)

Effect of Amendments. — The 1995 amendment, effective May 30, 1995, in the second paragraph, in the first sentence inserted "an assistant adjutant general for Army National Guard" preceding "and an assistant adjutant general" and substituted "each" for "both" preceding "of whom may hold"; added the second sentence in the second paragraph; and made stylistic changes.

ARTICLE 3.

National Guard.

§ 127A-40. Pensions for the members of the North Carolina national guard.

(a) Every member and former member of the North Carolina national guard who meets the requirements hereinafter set forth shall receive, commencing at age 60, a pension of fifty dollars ($50.00) per month for 20 years' creditable military service with an additional five dollars ($5.00) per month for each additional year of such service; provided, however, that the total pension shall not exceed one hundred dollars ($100.00) per month. The requirements for such pension are that each member shall:

(1) Have served and qualified for at least 20 years' creditable military service, including national guard, reserve and active duty, under the same requirement specified for entitlement to retired pay for nonregular service under Chapter 67, Title 10, United States Code.

(2) Have at least 15 years of the aforementioned service as a member of the North Carolina national guard.

(3) Have received an honorable discharge from the North Carolina national guard.

(b) Payment to a retired member of the North Carolina national guard under the provisions of this section will cease at the death of the individual and no payment will be made to beneficiaries or to the decedent's estate.

(c) No individual receiving retired pay as a result of length of service, age or physical disability retirement from any of the regular components of the armed forces of the United States will be eligible for benefits under this section.

(d) Nothing contained in this section shall preclude or in any way affect the benefits that an individual may be entitled to from State, federal or private retirement systems.

(e) Repealed by Session Laws 1989, c. 792, s. 2.3, effective for taxable years beginning on or after January 1, 1989.

(f) The Secretary of Crime Control and Public Safety shall determine the eligibility of guard members for the benefits herein provided and shall certify those eligible to the State Treasurer. In addition, the Department of Crime Control and Public Safety shall, on and after July 1, 1983, provide the Department of State Treasurer with an annual census population, by age and the number of years of creditable service, for all former members of the National Guard in receipt of a pension as well as for all active members of the National Guard who are not in receipt of a pension and who have seven and more years of creditable service. The Department of Crime Control and Public Safety shall also provide the State Treasurer a census population of all former members of the National Guard who are not in receipt of a pension and who have 15 and more years of creditable service. The Department of State Treasurer shall make pension payments to those persons certified from the North Carolina National Guard Pension Fund, which shall include general fund appropriations made to and transferred from the Department of Crime Control and Public Safety. The Department of State Treasurer shall have performed an annual actuarial valuation of the fund and shall have the financial responsibility for maintaining the fund on a generally accepted actuarial basis. The Department of Crime Control and Public Safety shall provide the Department of State Treasurer with whatever assistance is required by the State Treasurer in carrying out his financial responsibilities.

(g) The provisions of this section shall apply to any member or former member of the North Carolina national guard who is qualified for the above retirements with eligibility of such person commencing at age 60 or July 1, 1974, whichever is the later date.

(h) If, for any reason, the North Carolina National Guard Pension Fund shall be insufficient to pay in full any pension benefits, or other charges, then all benefits or payments shall be reduced pro rata, for as long as the deficiency in amount exists. No claim shall accrue with respect to any amount by which a pension or benefit payment shall have been reduced.

(i) Pensions for members of the North Carolina National Guard shall be subject to future legislative change or revision. (1973, c. 625, s. 1; c. 1241, ss. 1-3; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 1979, c. 870; 1983, c. 761, ss. 250, 251; 1989, c. 792, s. 2.3.)

§ 127A-44. North Carolina National Guard Commendation Medal.

There is hereby created the North Carolina National Guard Commendation Medal which shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the Governor or his designated representative. The Adjutant General of North Carolina or his designated representative, who shall not be below the rank of colonel (O-6), may award this medal. Any member or former member of the armed forces discharged under honorable conditions, who distinguishes himself by his example or the performance of a specific act in behalf of the North Carolina National Guard, is eligible for this award. (1975, c. 604, s. 2; 1977, c. 230, s. 3; 1991, c. 367, s. 2.)

§ 127A-44.1. North Carolina National Guard Achievement Medal.

There is hereby created the North Carolina National Guard Achievement Medal which shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the Governor or his designated representative. The Adjutant General of North Carolina or his designated representative, who shall not be below the rank of lieutenant colonel (O-5), may award this medal. Any member or former member of the armed forces discharged under honorable conditions, who distinguishes himself by his example or the performance of a specific act in behalf of the North Carolina National Guard, is eligible for this award. (1991, c. 367, s. 3.)

Editor's Note. — Session Laws 1991, c. 367, s. 6, made this section effective October 1, 1991.

§ 127A-45. North Carolina National Guard State Active Duty Award.

There is hereby created the North Carolina National Guard State Active Duty Award which shall be a ribbon of appropriate design. This ribbon and appurtenances thereto shall be of a design approved by the Governor or his designated representative. The Adjutant General of North Carolina may present this ribbon to members of the North Carolina National Guard who, by order of the Governor, satisfactorily serve a tour of State active duty. To be worthy of this award, the nature of the tour of State active duty must have been a distinct and notable service to the State or to a community, as determined by the Adjutant General of North Carolina. On or after July 1, 1991, this award may also be presented to active guard personnel and reserve personnel who satisfactorily participate in tours of State active duty. (1973, c. 966, s. 2; 1975, c. 604, s. 2; 1991, c. 367, s. 1.)

§ 127A-45.2A. North Carolina National Guard Outstanding Unit Award.

There is hereby created the North Carolina National Guard Outstanding Unit Award which shall be a streamer, a unit emblem, and a certificate, all of appropriate design as approved by the Governor or his designated representative. The Adjutant General may present this citation to any unit of the North Carolina National Guard distinguishing itself through meritorious achievement or service to the State of North Carolina. The required meritorious service, while of a lesser degree than that required for the award of the North Carolina National Guard Meritorious Unit Citation, must nevertheless have been accomplished with distinction. (1991, c. 367, s. 4.)

Editor's Note. — Session Laws, 1991, c. 367, s. 6, made this section effective October 1, 1991.

§ 127A-45.5A. Other awards.

The Adjutant General may, from time to time, create such other awards and medals to recognize meritorious service or outstanding achievement. The creation of such awards and medals shall be approved by the Governor. The Governor or his designee shall approve the design of such awards and medals. (1991, c. 367, s. 5.)

Editor's Note. — Session Laws, 1991, c. 367, s. 6, made this section effective October 1, 1991.

§ 127A-50.1. Military judges.

The Adjutant General shall appoint military judges to preside over courts-martial of the National Guard not in federal service. Minimum requirements for appointment as a military judge shall be:

(1) Licensed to practice law in this State or certified as a military judge by the Judge Advocate General of the Army, Air Force, Navy, or Marines;
(2) Designation as a judge advocate by The Judge Advocate General of the Army, Navy, Air Force, or Marines; and
(3) Membership in the North Carolina National Guard, the National Guard of another state, or the active or reserve components of any of the military services. (1987, c. 649, s. 1.)

Editor's Note. — Session Laws 1987, c. 649, s. 2 made this section effective upon ratification. The act was ratified July 21, 1987.

Article 5.

State Defense Militia.

§ 127A-81. State defense militia cadre.

(a) The Governor is authorized: to organize and regulate part of the unorganized militia as a State defense militia cadre in units or commands which he may deem necessary to provide a cadre for an active State defense militia; to prescribe regulations for the maintenance of the property and equipment of the cadre, for the exercise of its discipline, and for its training and duties.

(b) The cadre shall be designated the "North Carolina State Defense Militia Cadre" and shall be composed of a force of officers and enlisted personnel raised by appointment of the Governor, or otherwise, as may be provided by law. The Secretary of the Department of Crime Control and Public Safety may reimburse cadre members for expenses actually incurred, not to exceed the amount appropriated and authorized for such purposes by the General Assembly.

(c) The Governor's authority hereunder shall not be subject to regulations prescribed by the Secretary of Defense. Age and membership requirements for the State defense militia generally, as set forth in G.S. 127A-80 shall apply. The training of the cadre need not be in accordance with training regulations issued by the Department of Defense. The provisions of G.S. 127A-80 (c), (d), (g), (h) and (i) shall also apply to cadres.

(d) The total authorized strength of the cadre, its authorized officer and enlisted strength, the composition of each of its units or commands, and the allocation of cadre units or commands among the counties, cities, and towns of the State, shall be as prescribed by the Governor in suitable regulations enforced through the Adjutant General, or as otherwise provided by law.

(e) The duties of the State defense militia cadre shall be as ordered and directed by the Governor from time to time, or in regulations, and may include authority to take charge of armories and other military installations and real properties used by the North Carolina national guard, together with such other property as the regulations may provide, when and if the North Carolina national guard, or any part thereof, may be inducted into the service of the United States, or, for any extended period of time, may be absent on any duty from its home station. In addition, the cadre shall have duties appropriate to the organization, maintenance, and training of a military cadre to act as a nucleus for the organization of an active State defense militia whenever the necessity may arise. (1963, c. 1016, s. 1; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 1983, c. 314, s. 4; 1991 (Reg. Sess., 1992), c. 1030, s. 35.)

ARTICLE 8.

Pay of Militia.

§ 127A-106. Paid by the State.

When the militia or any portion thereof shall be ordered by the Governor into State service, the pay, subsistence, transportation and other necessary expenses incident thereto shall be paid by the State Treasurer, upon the approval of the Governor. (1917, c. 200, s. 52; C.S., s. 6866; 1975, c. 604, s. 2; 1993, c. 257, s. 12.)

ARTICLE 10.

Care of Military Property.

§ 127A-131. Unlawful conversion or willful destruction of military property.

(a) If any person shall willfully or wantonly destroy or injure, willfully retain after demand made or otherwise convert to his own use any property of the State or of the United States issued for the purpose of arming or equipping the militia of the State or if any person shall purchase any property of the State or of the United States knowing it to be unlawfully obtained, he shall be guilty of a Class 1 misdemeanor.

(b) Any person, firm or corporation receiving in pledge or buying from any other person, firm or corporation for the purpose of resale any goods, to include arms, ammunition, explosives, equipment, clothing, supplies and materials, which may reasonably be thought to be the property of the armed forces of the United States and their reserve components or of the militia of the State of North Carolina, shall keep a register and shall enter therein a true and accurate record of each purchase, showing the name, social security number and address of the person from whom purchased, the name and address of the firm or corporation from whom purchased, together with the amount paid for each item or lot of small items, the date of purchase, the serial numbers of all items bearing serial numbers, and any other marks, brands or descriptions which will serve to identify the items purchased. The register shall be at all times open to the inspection of the public. Any person, firm or corporation failing to comply with this provision shall be guilty of a Class 1 misdemeanor; and any person, firm or corporation making a false entry in such register shall be guilty of a Class 1 misdemeanor. (1876-7, c. 272, s. 19; Code, s. 3274; Rev., ss. 3536, 3537; C.S., ss. 6881, 6882; 1959, c. 218, s. 25; 1963, c. 1019, s. 6; 1975, c. 604, s. 2; 1993, c. 539, s. 936; 1994, Ex. Sess., c. 24, s. 14(c).)

Editor's Note. — Session Laws 1993, c. 539, s. 936, which amended this section, in s. 1359, as amended by Session Laws 1994, Extra Session, c. 24, s. 14(c), provides: "This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions."

ARTICLE 12.

General Provisions.

§ 127A-151. Organizing company without authority.

If any person shall organize a military company, or drill or parade under arms as a military body, except under the militia laws and regulations of the State, or shall exercise or attempt to exercise the power or authority of a military officer in this State, without holding a commission from the Governor, he shall be guilty of a Class 1 misdemeanor. (1893, c. 374, s. 38; Rev., s. 3538; C.S., s. 6894; 1975, c. 604, s. 2; 1993, c. 539, s. 937; 1994, Ex. Sess., c. 24, s. 14(c).)

Editor's Note. — Session Laws 1993, c. 539, s. 937, which amended this section, in s. 1359, as amended by Session Laws 1994, Extra Session, c. 24, s. 14(c), provides: "This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions."

§ 127A-152. Placing name on muster roll wrongfully.

If any officer of the militia of the State shall knowingly or willfully place, or cause to be placed, on any muster roll the name of any person not regularly or lawfully enlisted, or the name of any enlisted man who is dead or who has been discharged, transferred, or has lost membership for any cause whatsoever, or who has been convicted of any infamous crime, he shall be guilty of a Class 1 misdemeanor. (1893, c. 374, s. 33; Rev., s. 3539; C.S., s. 6895; 1975, c. 604, s. 2; 1993, c. 539, s. 938; 1994, Ex. Sess., c. 24, s. 14(c).)

Editor's Note. — Session Laws 1993, c. 539, s. 935, which amended this section, in s. 1359, as amended by Session Laws 1994, Extra Session, c. 24, s. 14(c), provides: "This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions."

ARTICLE 15.

North Carolina National Guard Tuition Assistance Act of 1975.

§ 127A-192. Definitions.

(a) "Business or Trade School". — Any school within the State of North Carolina which is licensed by the State Board of Education and listed by that Board as an approved private business school or an approved private trade school.

(b) "Private Educational Institutions". — Any junior college, senior college or university which is operated and governed by private interests not under the control of the federal, State or any local government, which is located within and licensed by the State of North Carolina, which does not operate for profit, whose curriculum is primarily directed toward the awarding of associate, baccalaureate or graduate degrees, which agrees to the applicable administration and funding provisions of this Article.

(c) "Secretary". — The Secretary of Crime Control and Public Safety or his designee.

(d) "State Educational Institutions". — Any of the constituent institutions of the University of North Carolina, or any community college operated under the provisions of Chapter 115D of the General Statutes of North Carolina.

(e) "Academic Year". — Any period of 365 days beginning with the first day of enrollment for a course of instruction. (1975, c. 917, s. 4; 1977, c. 70, s. 2; c. 228, s. 1; 1987, c. 564, s. 24.)

§ 127A-193. Benefit.

The benefit provided under this Article shall consist of a monetary educational assistance grant not to exceed one thousand dollars ($1,000) per academic year to qualifying members of the North Carolina national guard. Benefits shall be payable for a period of one academic year at a time, renewable at the option of the Secretary for a maximum of four thousand dollars ($4,000). (1975, c. 917, s. 5; 1977, c. 228, s. 2; 1983 (Reg. Sess., 1984), c. 1034, ss. 99, 100; 1993 (Reg. Sess., 1994), c. 769, s. 22.3.)

Editor's Note. — Session Laws 1993 (Reg. Sess., 1994), c. 769, s. 2 provides: "This act shall be known as 'The Current Operations and Capital Improvements Appropriations Act of 1994.'"

Session Laws 1993 (Reg. Sess., 1994), c. 769, s. 43.5 is a severability clause.

§ 127A-194. Eligibility.

(a) Active members of the North Carolina national guard who are enrolled or who shall enroll in any business or trade school, private educational institution or State educational institution shall be eligible to apply for this tuition assistance benefit: Provided, that the applicant has a minimum obligation of two years remaining as a member of the national guard from the end of the academic period for which tuition assistance is provided or that the applicant commit himself or herself to extended membership for at least two additional years from the end of said academic period.

(b) This tuition assistance benefit shall be applicable to students in the following categories:

(1) Students seeking to achieve completion of their secondary school education at a community college [or technical institute].

(2) Students seeking trade or vocational training or education.

(3) Students seeking to achieve a two-year associate degree.

(4) Students seeking to achieve a four-year baccalaureate degree.

(5) Students seeking to achieve a graduate degree. (1975, c. 917, s. 6; 1977, c. 228, ss. 3, 4.)

Editor's Note. — Session Laws 1987, c. 564, s. 12, effective July 6, 1987, directed that "community college" be substituted for "community college or technical institute" in subdivision (b)(1) of § 127-194. At the direction of the Revisor of Statutes, the phrase "or technical institute" has been placed in brackets at the end of subdivision (b)(1) of this section, which was apparently the section intended to be amended by the 1987 act.

Chapter 127B.

Military Affairs.

Article 1.

Military Property Sales Facilities.

Sec.
127B-5. Perjury; punishment.
127B-7. Penalties.

Article 2.

Discrimination Against Military Personnel.

Sec.
127B-15. Penalties.

ARTICLE 1.

Military Property Sales Facilities.

§ 127B-5. Perjury; punishment.

Any person who shall willfully commit perjury in any application for a permit pursuant to this Article shall be guilty of a Class 1 misdemeanor. (1985, c. 522, s. 1; 1993, c. 539, s. 939; 1994, Ex. Sess., c. 24, s. 14(c).)

Editor's Note. — Session Laws 1993, c. 539, s. 539, which amended this section, in s. 1359, as amended by Session Laws 1994, Extra Session, c. 24, s. 14(c), provides: "This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions."

§ 127B-7. Penalties.

Any dealer who violates the provisions of this Article shall be guilty of a Class 2 misdemeanor. In addition, any dealer convicted of violating this Article shall be ineligible for a dealer's permit for a period of three years from the date of conviction. Each violation shall constitute a separate and distinct offense. (1985, c. 522, s. 1; 1993, c. 539, s. 940; 1994, Ex. Sess., c. 24, s. 14(c).)

Editor's Note. — Session Laws 1993, c. 539, s. 940, which amended this section, in s. 1359, as amended by Session Laws 1994, Extra Session, c. 24, s. 14(c), provides: "This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions."

ARTICLE 2.

Discrimination Against Military Personnel.

§ 127B-14. Employer discrimination prohibited.

Legal Periodicals. — For article, "North Carolina Employment Law After Coman: Reaffirming Basic Rights in the Workplace," see 24 Wake Forest L. Rev. 905 (1989).

§ 127B-15. Penalties.

Any person who violates the provisions of this Article shall be deemed guilty of a Class 2 misdemeanor. Each violation shall constitute a separate and distinct offense. (1985, c. 522, s. 1; 1993, c. 539, s. 941; 1994, Ex. Sess., c. 24, s. 14(c).)

Editor's Note. — Session Laws 1993, c. 539, s. 941, which amended this section, in s. 1359, as amended by Session Laws 1994, Extra Session, c. 24, s. 14(c), provides: "This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions."

Legal Periodicals. — For article, "North Carolina Employment Law After Coman: Reaffirming Basic Rights in the Workplace," see 24 Wake Forest L. Rev. 905 (1989).

Chapter 128.

Offices and Public Officers.

Article 3.

Retirement System for Counties, Cities and Towns.

Sec.
128-27. Benefits.

ARTICLE 3.

Retirement System for Counties, Cities and Towns.

§ 128-27. Benefits.

(a) Service Retirement Benefits. —

(1) Any member may retire upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired: Provided, that the said member at the time so specified for his retirement shall have attained the age of 60 years and have at least five years of creditable service or shall have completed 30 years of creditable service, or if a fireman, he shall have attained the age of 55 years and have at least five years of creditable service.

(2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.

(3) Repealed by Session Laws 1971, c. 325, s. 12.

(4) Any member who was in service October 8, 1981, who had attained 60 years of age, may retire upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired.

(5) Any member who is a law enforcement officer, and who attains age 50 and completes 15 or more years of creditable service in this capacity or who attains age 55 and completes five or more years of creditable service in this capacity, may retire upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, also, any member who has met the conditions required by this subdivision but does not retire, and later becomes an employee other than as a law enforcement officer, continues to have the right to commence retirement.

(a1) Early Service Retirement Benefits. — Any member may retire and receive a reduced retirement allowance upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired: Provided, that the said member at the time so specified for his retirement shall have attained the age of 50 years and have at least 20 years of creditable service.

(b) Service Retirement Allowance of Persons Retiring on or after July 1, 1959, but prior to July 1, 1965. — Upon retirement from service on or after July 1, 1959, but prior to July 1, 1965, a member shall receive a service retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

(2) A pension equal to the annuity allowable at the age of 65 years or at his retirement age, whichever is the earlier, on the basis of contributions made prior to such earlier age; and

(3) If he has a prior service certificate in full force and effect, an additional pension which shall be equal to the annuity which would have been provided at the age of 65 years, or at the earlier age of retirement if prior thereto, by twice the contributions which he would have made during such period of service had the System been in operation and he contributed thereunder at the rate of

a. Six and twenty-five hundredths percent (6.25%) of his compensation if such certificate is a Class A certificate, or

b. Five percent (5%) of his compensation if such certificate is a Class B certificate, or

c. Four percent (4%) of his compensation if such certificate is a Class C certificate.

(b1) Service Retirement Allowances of Persons Retiring on or after July 1, 1965, but prior to July 1, 1967. — Upon retirement from service on or after July 1, 1965, but prior to July 1, 1967, a member shall receive a service retirement allowance which shall consist of:

(1) If the member's service retirement date occurs on or after his sixty-fifth birthday, such allowance shall be equal to the sum of (i) one percent (1%) of the portion of his average final compensation not in excess of forty-eight hundred dollars ($4,800), plus one and one-half percent (1½%) of the portion of such compensation in excess of forty-eight hundred dollars ($4,800) multiplied by the number of years of his creditable service rendered prior to January 1, 1966, and (ii) one percent (1%) of the portion of his average final compensation not in excess of forty-eight hundred dollars ($4,800), plus one and one-half percent (1½%) of the portion of such compensation in excess of fifty-six hundred dollars ($5,600), multiplied by the number of years of his creditable service rendered after January 1, 1966.

(2a) If the member's service retirement date occurs on or after his sixtieth birthday but before his sixty-fifth birthday, his service retirement allowance shall be computed as in (1) above but shall be reduced by five twelfths of one percent (5⁄12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his sixty-fifth birthday.

(2b) If the member's service retirement date occurs before his sixtieth birthday, his service retirement allowance shall be the actuarial equivalent of the allowance payable at the age of 60 years as computed in (2a) above.

(3) Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, and uniformed policemen or firemen not covered under the Social Security Act employed thereafter, shall receive not less than the benefit provided by G.S. 128-27(b).

(b2) Service Retirement Allowances of Persons Retiring on or after July 1, 1967, but prior to July 1, 1969. — Upon retirement from service on or after July 1, 1967, but prior to July 1, 1969, a member shall receive a service retirement allowance which shall consist of:

(1) If the member's service retirement date occurs on or after his sixty-fifth birthday, such allowance shall be equal to one and one-quarter percent (1¼%) of the portion of his average final compensation not in excess of five thousand six hundred dollars ($5,600) plus one and one-half percent (1½%) of the portion of such compensation in excess of five thousand six hundred dollars ($5,600), multiplied by the number of years of his creditable service.

(2a) If the member's service retirement date occurs before his sixty-fifth birthday, his service retirement allowance shall be computed as in (1) above, but shall be reduced by one third of one percent (⅓ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his sixty-fifth birthday.

(2b) If the member's service retirement date occurs before his sixtieth birthday, his service retirement allowance shall be the actuarial equivalent of the allowance payable at the age of 60 years as computed in (2a) above.

(3) Notwithstanding the foregoing provision, any member whose creditable service commenced prior to July 1, 1965, and policemen or firemen not covered under the Social Security Act employed thereafter, shall receive not less than the benefits provided by G.S. 128-27(b).

(b3) Service Retirement Allowances of Persons Retiring on or after July 1, 1969, but prior to July 1, 1973. — Upon retirement from service on or after July 1, 1969, but prior to July 1, 1973, a member shall receive a service retirement allowance which shall consist of:

(1) If the member's service retirement date occurs on or after his sixty-fifth birthday, regardless of his years of creditable service, or on or after his sixty-second birthday and the completion of 30 years of creditable service, such allowance shall be equal to one and one-quarter percent (1¼%) of the portion of his average final compensation not in excess of fifty-six hundred dollars ($5,600) plus one and one-half percent (1½%) of the portion of such compensation in excess of fifty-six hundred dollars ($5,600), multiplied by the number of years of his creditable service.

(2a) If the member's service retirement date occurs before his sixty-fifth birthday and prior to his completion of 30 or more years of creditable service, his service retirement allowance shall be computed as in (1) above, but shall be reduced by one quarter of one percent (¼ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his sixty-fifth birthday.

(2b) If the member's service retirement date occurs before his sixtieth birthday and prior to his completion of 30 or more years of creditable service, his service retirement allowance shall be the actuarial equivalent of the allowance payable at the age of 60 years as computed in (2a) above.

(3a) If the member's service retirement date occurs before his sixty-second birthday but on or after his sixtieth birthday and on or after completion of 30 or more years of creditable service, his service retirement allowance shall be computed as in (1) above, but shall be reduced by one quarter of one percent (¼ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his sixty-second birthday.

(3b) If the member's service retirement date occurs before his sixtieth birthday but on or after completion of 30 or more years of creditable service, his service retirement allowance shall be the actuarial equivalent of the allowance payable at the age of 60 years as computed in (3a) above.

(4) Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, and uniformed policemen or firemen not covered under the Social Security Act employed thereafter, shall receive not less than the benefits provided by G.S. 128-27(b).

(b4) Service Retirement Allowances of Members Retiring on or after July 1, 1973, but prior to July 1, 1976. — Upon retirement from service, in accordance with subsection (a) above, on or after July 1, 1973, but prior to July 1, 1976, a member shall receive a service retirement allowance computed as follows:

(1) If the member's service retirement date occurs on or after his sixty-fifth birthday, regardless of his years of creditable service, or after the completion of 30 years of creditable service, such allowance shall be equal to one and one-quarter percent (1¼%) of the portion of his average final compensation not in excess of fifty-six hundred dollars ($5,600) plus one and one-half percent (1½%) of the portion of such compensation in excess of fifty-six hundred dollars ($5,600), multiplied by the number of years of his creditable service.

(2a) If the member's service retirement date occurs on or after his sixtieth birthday but before his sixty-fifth birthday and prior to his completion of 30 or more years of creditable service, his service retirement allowance shall be computed as in (1) above, but shall be reduced by one quarter of one percent (¼ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his sixty-fifth birthday.

(2b) If the member's service retirement date occurs before his sixtieth birthday and prior to his completion of 30 or more years of creditable service, his service retirement allowance shall be the actuarial equivalent of the allowance payable at the age of 60 years as computed in (2a) above.

(3) Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, and uniformed policemen or firemen not covered under the Social Security Act employed thereafter, shall receive not less than the benefits provided by G.S. 128-27(b).

(b5) Service Retirement Allowances of Members Retiring on or after July 1, 1976, but prior to July 1, 1978. — Upon retirement from service, in accordance with subsection (a) above, on or after July 1, 1976, but prior to July 1, 1978, a member shall receive a service retirement allowance computed as follows:

(1) If the member's service retirement date occurs on or after his sixty-fifth birthday, regardless of his years of creditable service, or after the completion of 30 years of creditable service, such allowance shall be equal to one and one-half percent (1½%) of his average final compensation, multiplied by the number of years of his creditable service.

(2a) If the member's service retirement date occurs on or after his sixtieth birthday but before his sixty-fifth birthday and prior to his completion of 30 or more years of service, his service retirement allowance shall be computed as in (1) above, but shall be reduced by one quarter of one percent (¼ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his sixty-fifth birthday.

(2b) If the member's service retirement date occurs before his sixtieth birthday and prior to his completion of 30 or more years of creditable service, his service retirement allowance shall be the actuarial equivalent of the allowance payable at the age of 60 years as computed in (2a) above.

(3) Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, and uniformed policemen or firemen not covered under the Social Security Act employed thereafter, shall receive not less than the benefits provided by G.S. 128-27(b).

(b6) Service Retirement Allowance of Members Retiring on or after July 1, 1978, but prior to July 1, 1983. — Upon retirement from service, in accordance with subsection (a) above, on or after July 1, 1978, but prior to July 1, 1983, a member shall receive a service retirement allowance computed as follows:

(1) If the member's service retirement date occurs on or after his sixty-fifth birthday or after the completion of 30 years of creditable service, such allowance shall be equal to one and fifty-five one-hundredths percent (1.55%) of his average final compensation, multiplied by the number of years of his creditable service.

(2a) If the member's service retirement date occurs after his sixtieth and before his sixty-fifth birthday and prior to his completion of 30 or more years of creditable service, his retirement allowance shall be computed as in (1) above, but shall be reduced by one quarter of one percent (¼ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his sixty-fifth birthday.

(2b) If the member's service retirement date occurs before his sixtieth birthday and prior to his completion of 30 or more years of creditable service, his retirement allowance shall be the actuarial equivalent of the allowance payable at the age of 60 years as computed in (2a) above.

(3) Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, and uniformed policemen or firemen not covered under the Social Security Act employed thereafter, shall receive not less than the benefits provided by G.S. 128-27(b).

(b7) Service Retirement Allowances of Members Retiring on or after July 1, 1983, but prior to July 1, 1985. — Upon retirement from service, in accordance with subsection (a) above, on or after July 1, 1983, but prior to July 1, 1985, a member shall receive a service retirement allowance computed as follows:

(1) If the member's service retirement date occurs on or after his sixty-fifth birthday, regardless of his years of creditable service, or after the completion of 30 years of creditable service, such allowance shall be equal to one and fifty-seven one-hundredths percent (1.57%) of his average final compensation, multiplied by the number of years of his creditable service.

(2a) If the member's service retirement date occurs after his sixtieth and before his sixty-fifth birthday and prior to his completion of 30 or more years of creditable service, his retirement allowance shall be computed as in (1) above, but shall be reduced by one quarter of one percent (¼ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his sixty-fifth birthday.

(2b) If the member's service retirement date occurs before his sixtieth birthday and prior to his completion of 30 or more years of creditable service, his retirement allowance shall be the actuarial equivalent of the allowance payable at the age of 60 years as computed in (2a) above.

(3) Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, and uniformed policemen or firemen not covered under the Social Security Act employed thereafter, shall receive not less than the benefits provided by G.S. 128-27(b).

(b8) Service Retirement Allowance of Law Enforcement Officers Retiring on or after January 1, 1986, but before July 1, 1988. — Upon retirement from service, in accordance with subsection (a) above, on or after January 1, 1986, but before July 1, 1988, a member who is a law enforcement officer or an eligible former law enforcement officer shall receive the following service retirement allowance:

(1) If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and fifty-eight one hundredths percent (1.58%) of his average final compensation, multiplied by the number of years of his creditable service.

(2) If the member's service retirement date occurs after his 50th and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to his completion of 30 years of creditable service, his retirement allowance shall be computed as in (1) above, but shall be reduced by one-third of one percent (1/3 of 1%) for each month by which his retirement date precedes the first day of the month coincident with or next following his 55th birthday.

(b9) Service Retirement Allowance of Members Retiring on or after July 1, 1985, but before July 1, 1988. — Upon retirement from service, in accordance with subsection (a) above, on or after July 1, 1985, but before July 1, 1988, a member shall receive the following service retirement allowance:

(1) If the member's service retirement date occurs on or after his 65th birthday, regardless of his years of creditable service, or after the completion of 30 years of creditable service, such allowance shall be equal to one and fifty-eight one hundredths percent (1.58%) of his average final compensation, multiplied by the number of years of his creditable service.

(2) Such allowance shall also be governed by the provisions of G.S. 128-27(b7)(2a), (2b), and (3).

(b10) Service Retirement Allowance of Members Retiring on or after July 1, 1988, but before July 1, 1989. — Upon retirement from service in accordance with subsection (a) above, on or after July 1, 1988, but before July 1, 1989, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and sixty hundredths percent (1.60%) of his average final compensation, multiplied by the number of years of his creditable service.
  b. Such allowance shall also be governed by the provisions of G.S. 128-27(b8)(2).

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service, or on or after his 60th birthday upon the completion of 25 years of creditable service, such allowance shall be equal to one and sixty-hundredths percent (1.60%) of his average final compensation, multiplied by the number of years of his creditable service.
  b. Such allowance shall also be governed by the provisions of G.S. 128-27(b7)(2a), (2b) and (3).

(b11) Service Retirement Allowance of Members Retiring on or after July 1, 1989, but before July 1, 1990. — Upon retirement from service in accordance with subsection (a) above, on or after July 1, 1989, but before July 1, 1990, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and sixty-three hun-

dredths percent (1.63%) of his average final compensation, multiplied by the number of years of his creditable service.

b. This allowance shall also be governed by the provisions of G.S. 128-27(b8)(2).

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and sixty-three hundredths percent (1.63%) of his average final compensation, multiplied by the number of years of creditable service.

b. This allowance shall also be governed by the provisions of G.S. 128-27(b7)(2a) and (3).

(b12) Service Retirement Allowance of Members Retiring on or after July 1, 1990, but before July 1, 1992. — Upon retirement from service in accordance with subsection (a) above, on or after July 1, 1990, but before July 1, 1992, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and sixty-four hundredths percent (1.64%) of his average final compensation, multiplied by the number of years of his creditable service.

b. This allowance shall also be governed by the provisions of G.S. 128-27(b8)(2).

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and sixty-four hundredths percent (1.64%) of his average final compensation, multiplied by the number of years of creditable service.

b. This allowance shall also be governed by the provisions of G.S. 128-27(b7)(2a) and (3).

(b13) Service Retirement Allowance of Members Retiring on or after July 1, 1992, but before July 1, 1994. — Upon retirement from service in accordance with subsection (a) above, on or after July 1, 1992, but before July 1, 1994, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
   a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and seventy hundredths percent (1.70%) of his average final compensation, multiplied by the number of years of his creditable service.
   b. This allowance shall also be governed by the provisions of G.S. 128-27(b8)(2).

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
   a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and seventy hundredths percent (1.70%) of his average final compensation, multiplied by the number of years of creditable service.
   b. This allowance shall also be governed by the provisions of G.S. 128-27(b7)(2a), (2b), and (3).

(b14) Service Retirement Allowance of Members Retiring on or after July 1, 1994, but before July 1, 1995. — Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1994, but before July 1, 1995, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
   a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and seventy-one hundredths percent (1.71%) of his average final compensation, multiplied by the number of years of his creditable service.
   b. This allowance shall also be governed by the provisions of G.S. 128-27(b8)(2).

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
   a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and seventy-one hundredths percent (1.71%) of his average final compensation, multiplied by the number of years of creditable service.

b. This allowance shall also be governed by the provisions of G.S. 128-27(b7)(2a), (2b), and (3).

(b15) Service Retirement Allowance of Members Retiring on or after July 1, 1995. — Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1995, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and seventy- two hundredths percent (1.72%) of his average final compensation, multiplied by the number of years of his creditable service.

b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 128-27(b15)(1)a. reduced by one-third of one percent (⅓ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b15)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and seventy-two hundredths percent (1.72%) of his average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after his 60th and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b15)(2)a. but shall be reduced by one-quarter of one percent (¼ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:

1. The service retirement allowance as computed under G.S. 128-27(b15)(2)a. but reduced by the sum of five-twelfths of one percent (5⁄12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1⁄4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or
2. The service retirement allowance as computed under G.S. 128-27(b15)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b15)(2)b.

d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b).

(c) Disability Retirement Benefits. — Upon the application of a member or of his employer, any member who has had five or more years of creditable service may be retired by the Board of Trustees, on the first day of any calendar month, not less than one day nor more than 90 days next following the date of filing such application, on a disability retirement allowance: Provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity was incurred at the time of active employment and has been continuous thereafter, that such incapacity is likely to be permanent, and that such member should be retired; Provided further the medical board shall determine if the member is able to engage in gainful employment and, if so, the member may still be retired and the disability retirement allowance as a result thereof shall be reduced as in subsection (e) below. Provided further, that the Medical Board shall not certify any member as disabled who:

(1) Applies for disability retirement based upon a mental or physical incapacity which existed when the member first established membership in the system; or

(2) Is in receipt of any payments on account of the same disability which existed when the member first established membership in the system.

The Board of Trustees shall require each employee upon enrolling in the retirement system to provide information on the membership application concerning any mental or physical incapacities existing at the time the member enrolls.

Notwithstanding the requirement of five or more years of creditable service to the contrary, a member who is a law enforcement officer or a fireman as defined in G.S. 58-86-25 or rescue squad worker as defined in G.S. 58-86-30 and who has had one year or more of creditable service and becomes incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty, and meets all other requirements for disability retirement benefits, may be retired by the Board of Trustees on a disability retirement allowance.

Notwithstanding the foregoing to the contrary, any beneficiary who commenced retirement with an early or service retirement benefit has the right, within three years of his retirement, to convert to an allowance with disability retirement benefits without modification of any election of optional allowance previously made; provided, the beneficiary would have met all applicable requirements for disability retirement benefits while still in service as a member. The allowance on account of disability retirement benefits to the beneficiary shall be retroactive to the effective date of early or service retirement.

Notwithstanding the foregoing, effective April 1, 1991, the surviving designated beneficiary of a deceased member who met all other requirements for disability retirement benefits, except whose death occurred before the first day of the calendar month in which the member's disability retirement allowance was to be due and payable, may elect to receive the reduced retirement allowance provided by a one hundred percent (100%) joint and survivor payment option in lieu of a return of accumulated contributions, provided the following conditions apply:

(1) The member had designated as the principal beneficiary, to receive a return of accumulated contributions at the time of his death, one and only one person, and

(2) The member had not instructed the Board of Trustees in writing that he did not wish the provision of this subsection to apply.

(d) Allowance on Disability Retirement of Persons Retiring prior to July 1, 1965. — Upon retirement for disability, in accordance with subsection (c) above, prior to July 1, 1965, a member shall receive a service retirement allowance if he has attained the age of 60 years, otherwise he shall receive a disability retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of the retirement;

(2) A pension equal to seventy-five percent (75%) of the pension that would have been payable upon service retirement at the age of 65 years had the member continued in service to the age of 65 years without further change in compensation.

Supplemental disability benefits heretofore provided are hereby made a permanent part of disability benefits after age 65, and shall not be discontinued at age 65.

(d1) Allowance on Disability Retirement of Persons Retiring on or after July 1, 1965, but prior to July 1, 1969. — Upon retirement for disability, in accordance with subsection (c) above, on or after July 1, 1965, but prior to July 1, 1969, a member shall receive a service retirement allowance if he has attained the age of 60 years, otherwise he shall receive a disability retirement allowance which shall be computed as follows:

(1) Such allowance shall be equal to the service retirement allowance which would have been payable had he contin-

ued in service without further change in compensation, to the age of 60 years, minus the actuarial equivalent of the contributions he would have made during such continued service.

(2) Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, and uniformed policemen or firemen not covered under the Social Security Act employed thereafter, shall receive not less than the benefit provided by G.S. 128-27(d).

(d2) Allowance on Disability Retirement of Persons Retiring on or after July 1, 1969, but prior to July 1, 1971. — Upon retirement for disability, in accordance with subsection (c) above, on or after July 1, 1969, but prior to July 1, 1971, a member shall receive a service retirement allowance if he has attained the age of 60 years, otherwise he shall receive a disability retirement allowance which shall be computed as follows:

(1) Such allowance shall be equal to the service retirement allowance which would have been payable had he continued in service without further change in compensation to the age of 65 years, minus the actuarial equivalent of the contributions he would have made during such continued service.

(2) Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, and uniformed policemen or firemen not covered under the Social Security Act employed thereafter, shall receive not less than the benefit provided by G.S. 128-27(d).

(d3) Allowance on Disability Retirement of Persons Retiring on or after July 1, 1971, but prior to July 1, 1982. — Upon retirement for disability, in accordance with subsection (c) of this section on or after July 1, 1971, but prior to July 1, 1982, a member shall receive a service retirement allowance if he has attained the age of 65 years; otherwise he shall receive a disability retirement allowance which shall be computed as follows:

(1) Such allowance shall be equal to a service retirement allowance calculated on the basis of the member's average final compensation prior to his disability retirement and the creditable service he would have had at the age of 65 years if he had continued in service.

(2) Notwithstanding the foregoing provisions,

a. Any member whose creditable service commenced prior to July 1, 1971, shall receive not less than the benefit provided by G.S. 128-27(d2);

b. The amount of disability allowance payable from the reserve funds of the Retirement System to any member retiring on or after July 1, 1974, who is eligible for and in receipt of a disability benefit under the Social Security Act shall be seventy percent (70%) of the amount calculated under a above, and the balance shall be provided by the employer from time to time during each year in such amounts as may be required to cover such payments as current disbursements; and

c. The amount of disability allowance payable to any member retiring on or after July 1, 1974, who is not eligible for and in receipt of a disability benefit under the Social Security Act shall not be payable from the reserve funds of the Retirement System but shall be provided by the employer from time to time during each year in such amounts as may be required to cover such payments as current disbursements.

(d4) Allowance on Disability Retirement of Persons Retiring on or after July 1, 1982. — Upon retirement for disability, in accordance with subsection (c) of this section on or after July 1, 1982, a member shall receive a service retirement allowance if he has qualified for an unreduced service retirement allowance; otherwise the allowance shall be equal to a service retirement allowance calculated on the member's average final compensation prior to his disability retirement and the creditable service he would have had had he continued in service until the earliest date on which he would have qualified for an unreduced service retirement allowance.

(e) Reexamination of Beneficiaries Retired on Account of Disability. — Once each year during the first five years following retirement of a member on a disability allowance, and once in every three-year period thereafter, the Board of Trustees may, and upon his application shall, require any disability beneficiary who has not yet attained the age of 60 years to undergo a medical examination, such examination to be made at the place of residence of said beneficiary or other place mutually agreed upon, by the physician or physicians designated by the Board of Trustees. Should any disability beneficiary who has not yet attained the age of 60 years refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the Board of Trustees, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the Board of Trustees.

(1) The Board of Trustees shall determine whether a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference, as hereinafter indexed, between his disability retirement allowance and the gross compensation earned as an employee during the 12 consecutive months in the final 48 months of service prior to retirement producing the highest gross compensation excluding any compensation received on account of termination. If the disability beneficiary is earning or is able to earn more than the difference, the portion of his disability retirement allowance not provided by his contributions shall be reduced to an amount which, together with the portion of the disability retirement allowance provided by his contributions and the amount earnable by him shall equal the amount of his gross compensation prior to retirement. This difference shall be increased on January 1 each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%). Should the earning capacity of the disability beneficiary later change, the portion of his disability retirement allowance not provided by his contributions may be further modified. In lieu of the reductions on account of a disability beneficiary earning more than the aforesaid difference, he may elect to convert his disability retirement allowance to a service retirement allowance calculated on the basis of his average final compensation and creditable service at the time of disability retirement and his age at

the time of conversion to service retirement. This election is irrevocable.

The provisions of this subdivision shall not apply to beneficiaries of the Law Enforcement Officers' Retirement System transferred to this Retirement System who commenced retirement on and before July 1, 1981.

(2) Should a disability beneficiary under the age of 62 years be restored to active service at a compensation not less than his average final compensation, his retirement allowance shall cease, he shall again become a member of the Retirement System and he shall contribute thereafter at the contribution rate which is applicable during his subsequent membership service. Any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement he shall be credited with all his service as a member, but should he be restored to active service on or after the attainment of the age of 50 years his pension upon subsequent retirement shall not exceed the sum of the pension which he was receiving immediately prior to his last restoration after June 30, 1951, and the pension that he would have received on account of his service since such last restoration had he entered service at that time as a new entrant.

(3) Notwithstanding the foregoing, a member retired on a disability retirement allowance who is restored to service and subsequently retires on or after July 1, 1971, shall be entitled to an allowance not less than the allowance prescribed in a below reduced by the amount in b below.

a. The allowance to which he would have been entitled if he were retiring for the first time, calculated on the basis of his total creditable service represented by the sum of his creditable service at the time of his first retirement and his creditable service after he was restored to service.

b. The actuarial equivalent of the retirement benefits he previously received.

(3a) Notwithstanding the foregoing, should a beneficiary who retired on a disability retirement allowance be restored to service as an employee, then the retirement allowance shall cease as of the first day of the month following the month in which the beneficiary is restored to service and the beneficiary shall become a member of the Retirement System and shall contribute thereafter as allowed by law at the uniform contribution payable by all members. Upon the subsequent retirement of the beneficiary, he shall be entitled to an allowance to which he would have been entitled if he were retiring for the first time, calculated on the basis of his total creditable service represented by the sum of his creditable service at the time of his first retirement and his creditable service after he was restored to service. Provided, however, any election of an optional allowance cannot be changed unless the member subsequently completes three years of membership service after being restored to service.

(4) As a condition to the receipt of the disability retirement allowance provided for in G.S. 128-27(d), (d1), (d2) and (d3)

each member retired on a disability retirement allowance shall, on or before April 15 of each calendar year, provide the Board of Trustees with a statement of his or her income received as compensation for services, including fees, commissions or similar items, and income received from business, for the previous calendar year. Such statement shall be filed on a form as required by the Board of Trustees.

The Director of the State Retirement Systems shall contact any State or federal agency which can provide information to substantiate the statement required to be submitted by this subdivision and may enter into agreements for the exchange of information.

(5) Notwithstanding any other provisions of this Article to the contrary, a beneficiary who was a beneficiary retired on a disability retirement with the Law Enforcement Officers' Retirement System at the time of the transfer of law enforcement officers employed by a participating employer and beneficiaries last employed by a participating employer to this Retirement System and who also was a contributing member of this Retirement System at that time, shall continue to be paid his retirement allowance without restriction and may continue as a member of this Retirement System with all the rights and privileges appendant to membership. Any beneficiary who retired on a disability retirement allowance as an employee of any participating employer under the Law Enforcement Officers' Retirement System and becomes employed as an employee other than as a law enforcement officer by an employer participating in the Retirement System after the aforementioned transfer shall continue to be paid his retirement allowance without restriction and may continue as a member of this Retirement System with all the rights and privileges appendant to membership until January 1, 1989, at which time his retirement allowance shall cease and his subsequent retirement shall be determined in accordance with the preceding subdivision (3a) of this section. Any beneficiary as hereinbefore described who becomes employed as a law enforcement officer by an employer participating in the Retirement System shall cease to be a beneficiary and shall immediately commence membership and his subsequent retirement shall be determined in accordance with subdivision (3a) of this section.

(6) Notwithstanding any other provision to the contrary, a beneficiary in receipt of a disability retirement allowance until the earliest date on which he would have qualified for an unreduced service retirement allowance shall thereafter (i) not be subject to further reexaminations as to disability, (ii) not be subject to any reduction in allowance on account of being engaged in a gainful occupation other than with an employer participating in the Retirement System, and (iii) be considered a beneficiary in receipt of a service retirement allowance. Provided, however, a beneficiary in receipt of a disability retirement allowance whose allowance is reduced on account of reexamination as to disability or to ability to engage in a gainful occupation prior to the date on which he would have qualified for an unreduced service

retirement allowance shall have only the right to elect to convert to an early or service retirement allowance as permitted under subdivision (1) above.

(f) Return of Accumulated Contributions. — Should a member cease to be an employee except by death or retirement under the provisions of this Chapter, he shall upon submission of an application be paid, not earlier than 60 days from the date of termination of service, his contributions and, if he has attained at least five years of membership service or if termination of his membership service is involuntary as certified by the employer, the accumulated regular interest thereon, provided that he has not in the meantime returned to service. Upon payment of such sum his membership in the System shall cease and, if he thereafter again becomes a member, no credit shall be allowed for any service previously rendered except as provided in G.S. 128-26; and such payment shall be in full and complete discharge of any rights in or to any benefits otherwise payable hereunder. Upon receipt of proof satisfactory to the Board of Trustees of the death, prior to retirement, of a member or former member there shall be paid to such person or persons as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the member's death, otherwise to the member's legal representatives, the amount of his accumulated contributions at the time of his death, unless the beneficiary elects to receive the alternate benefit under the provisions of (m) below. An extension service employee who made contributions to the Local Governmental Employees' Retirement System and the Teachers' and State Employees' Retirement System as a result of dual employment may not be paid his accumulated contributions unless he is eligible to be paid his accumulated contributions in both systems for the same period of service.

Pursuant to the provisions of G.S. 135-56.2, a member who is also a member of the Consolidated Judicial Retirement System may irrevocably elect to transfer any accumulated contributions to the Consolidated Judicial Retirement System or to the Supplemental Retirement Income Plan and forfeit any rights in or to any benefits otherwise payable hereunder.

(f1) Notwithstanding the foregoing provisions, upon or after retirement any member who was a uniformed fireman and any surviving beneficiary of a member who was a uniformed fireman, shall upon submission of an application, be paid the sum of accumulated contributions, with regular interest thereon, made under those provisions of G.S. 128-30(b)(1) that applied from July 1, 1965, through June 30, 1971, to the extent of the contributions required of the member that were in excess of the contributions required of other members of the Local Governmental Employees' Retirement System covered under the Social Security Act as was from time to time in effect; provided that, the return of contributions shall be payable only if the contributions did not increase the retirement allowance of the member or surviving beneficiary under the provisions of this Chapter.

(f2) Expired.

(g) Election of Optional Allowance. — With the provision that until the first payment on account of any benefit becomes normally due, or his first retirement check has been cashed, any member may elect to receive his benefits in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent of such retirement allowance in a reduced allowance payable throughout life under the provisions of one of the Options set forth below. The election of Option two or Option three or nomination of the person thereunder shall be revoked if such person nominated dies prior to the date the first payment becomes normally due or the first retirement check has been cashed. Such election may be revoked by the member prior to the date the first payment becomes normally due or his first retirement check has been cashed. Provided, however, any member having elected Options two, three, or six and nominated his or her spouse to receive a retirement allowance upon the member's death may, after divorce from his or her spouse, revoke the nomination and elect a new option, effective on the first day of the month in which the new option is elected, providing for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new option.

Option one. (a) In the Case of a Member Who Retires prior to July 1, 1965. — If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees or, if none, to his legal representative.

(b) In the Case of a Member Who Retires on or after July 1, 1965, but prior to July 1, 1993. — If he dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less one one-hundred-twentieth thereof for each month for which he has received a retirement allowance payment, shall be paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees or, if none, to his legal representative; or

Option two. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the person selected is other than his spouse the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option three. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or

Option four. Adjustment of Retirement Allowance for Social Security Benefits. — Until the first payment on account of any benefit becomes normally due, any member may elect to convert his benefit otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that with his benefit under Table II of the Federal Social Security Act, he will receive, so far as possible, approximately the same amount per year before and after the earliest age at which he becomes eligible, upon application therefor, to receive a social security benefit.

Option five. For Members Retiring prior to July 1, 1993. — The member may elect to receive a reduced retirement allowance under the conditions of Option two or Option three, as provided for above, with the modification that if both he and the person nominated die within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1⁄120th thereof for each month for which a retirement allowance has been paid, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

Option six. A member may elect either Option two or Option three with the added provision that in the event the designated beneficiary predeceases the member, the retirement allowance payable to the member after the designated beneficiary's death shall be equal to the retirement allowance which would have been payable had the member not elected the option.

(g1) In the event of the death of a retired member while in receipt of a retirement allowance under the provisions of this Article, there shall be paid to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the retiree at the date of retirement over the total of the retirement allowances paid prior to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the retirement allowances paid to the retiree and the designated survivor combined equals the amount of the accumulated contributions of the retiree at the date of retirement, the excess, if any, of such accumulated contributions over the total of the retirement allowances paid to the retiree and the survivor combined shall be paid in a lump sum to such person or persons as the retiree shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative.

(h) Until June 30, 1951, all benefits payable to or on account of any beneficiary retired before such date shall be computed on the basis of the provisions of Chapter 128 as they existed at the date of establishment of the Retirement System. On and after July 1, 1951, all such benefits shall be adjusted to take into account, under such rules as the Board of Trustees may adopt, the provisions of Chapter 128 and all amendments thereto in effect on July 1, 1951, and no further contributions on account of such adjustments shall be required of such beneficiaries. The Board of Trustees may authorize such transfers of reserves between the funds of the Retirement System as may be required on account of such adjustments.

(i) No action shall be commenced against the State or the Retirement System by any retired member or beneficiary respecting any deficiency in the payment of benefits more than three years after such deficient payment was made, and no action shall be commenced by the State or the Retirement System against any retired member or former member or beneficiary respecting any overpayment of benefits or contributions more than three years after such overpayment was made.

(j) Increase in Benefits to Those Persons Who Were in Receipt of Benefits prior to July 1, 1967. — From and after July 1, 1967, the monthly benefits, to or on account of persons who commenced receiving benefits from the System prior to July 1, 1967, shall be increased by a percentage thereof. Such percentage shall be determined in accordance with the following schedule:

Period in Which Benefits Commenced	Percentage
January 1, 1966, to June 30, 1967	5%
Year 1965	6%
Year 1964	7%
Year 1963	8%
Year 1962	9%
Year 1961	10%
Year 1960	11%
Year 1959	12%
Year 1958	13%
Year 1957	14%
Year 1956	15%
Year 1955	16%
Year 1954	17%
Year 1953	18%
Year 1952	19%
Year 1951	20%
Year 1950	21%
Year 1949	22%
Year 1948	23%
Year 1947	24%
Year 1946	25%

The minimum increase pursuant to this subsection (j) shall be five dollars ($5.00) per month; provided that, if an optional benefit has been elected, said minimum shall be reduced actuarially as determined by the Board and shall be applicable to a retired member, if surviving, otherwise to his designated beneficiary under the option elected.

(k) Post-Retirement Increases in Allowances. — As of December 31, 1969, the ratio of the Consumer Price Index to such index one year earlier shall be determined. If such ratio indicates an increase that equals or exceeds three per centum (3%), each beneficiary receiving a retirement allowance as of December 31, 1968, shall be entitled to have his allowance increased three per centum (3%) effective July 1, 1970.

As of December 31, 1970, the ratio of the Consumer Price Index to such index one year earlier shall be determined. If such ratio indicates an increase of at least one per centum (1%), each beneficiary on the retirement rolls as of July 1, 1970, shall be entitled to have his allowance increased effective July 1, 1971, as follows:

Increase In Index	*Increase In Allowance*
1.00 to 1.49%	1%
1.50 to 2.49%	2%
2.50 to 3.49%	3%

Increase In Index	*Increase In Allowance*
3.50% or more	4%

As of December 31, 1971, an increase in retirement allowances shall be calculated and made effective July 1, 1972, in the manner described in the preceding paragraph. As of December 31 of each year after 1971, the ratio (R) of the Consumer Price Index to such index one year earlier shall be determined, and each beneficiary on the retirement rolls as of July 1 of the year of determination shall be entitled to have his allowance increased effective on July 1 of the year following the year of determination by the same percentage of increase indicated by the ratio (R) calculated to the nearest tenth of one per centum (1/10 of 1%), but not more than four per centum (4%); provided that any such increase in allowances shall be contingent upon the total fund providing sufficient investment gains to cover the additional actuarial liabilities on account of such increase.

The allowance of a surviving annuitant of a beneficiary whose allowance is increased under this subsection shall, when and if payable, be increased by the same per centum.

Any increase in allowance granted hereunder shall be permanent, irrespective of any subsequent decrease in the Consumer Price Index, and shall be included in determining any subsequent increase.

For purposes of this subsection, Consumer Price Index shall mean the Consumer Price Index (all items — United States city average), as published by the United States Department of Labor, Bureau of Labor Statistics.

(*l*) Death Benefit Plan. — The provisions of this subsection shall become effective for any employer only after an agreement to that effect has been executed by the employer and the Director of the Retirement System. There is hereby created a Group Life Insurance Plan (hereinafter called the "Plan") which is established as an employee welfare benefit plan that is separate and apart from the Retirement System and under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees under the Group Life Insurance Plan, of the death, in service, of a member who had completed at least one full calendar year of membership in the Retirement System, there shall be paid to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

(1) The compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs, or

(2) The greatest compensation on which contributions were made by the member during a 12-month period of service within the 24-month period of service ending on the last day of the month preceding the month in which his last day of actual service occurs;

(3) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1049, s. 2;

subject to a maximum of twenty thousand dollars ($20,000). Such death benefit shall be payable apart and separate from the payment of the member's accumulated contributions under the System on his death pursuant to the provisions of subsection (f) of this section. For the purpose of the Plan, a member shall be deemed to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service.

The death benefit provided in this subsection shall not be payable, notwithstanding the member's compliance with all the conditions set forth in the preceding paragraph, if his death occurs

(1) After June 30, 1969 and after he has attained age 70; or
(2) After December 31, 1969 and after he has attained age 69; or
(3) After December 31, 1970 and after he has attained age 68; or
(4) After December 31, 1971 and after he has attained age 67; or
(5) After December 31, 1972 and after he has attained age 66; or
(6) After December 31, 1973 and after he has attained age 65; or
(7) After December 31, 1978, but before January 1, 1987, and after he has attained age 70.

Notwithstanding the above provisions, the death benefit shall be payable on account of the death of any member who died or dies on or after January 1, 1974, but before January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or she had not yet attained age 66, was at the time of death completing the work year for those individuals under specific contract, or during the fiscal year for those individuals not under specific contract, in which he or she attained age 65, and otherwise met all conditions for payment of the death benefit.

Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund qualified under section 501(c)(9) of the Internal Revenue Code of 1954, as amended, for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund is established, it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the trust fund shall be credited to such fund.

In administration of the death benefit the following shall apply:

(1) For the purpose of determining eligibility only, in this subsection "calendar year" shall mean any period of 12 consecutive months. For all other purposes in this subsection "calendar year" shall mean the 12 months beginning January 1 and ending December 31.
(2) Last day of actual service shall be:
    a. When employment has been terminated, the last day the member actually worked.
    b. When employment has not been terminated, the date on which an absent member's sick and annual leave expire.

(3) For a period when a member is on leave of absence, his status with respect to the death benefit will be determined by the provisions of G.S. 128-26(g).

(4) A member on leave of absence from his position as a local governmental employee for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit, if applicable. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a local governmental employee during the 12-month period immediately prior to the month in which death occurred, not to exceed twenty thousand dollars ($20,000).

The provisions of the Retirement System pertaining to administration, G.S. 128-28, and management of funds, G.S. 128-29, are hereby made applicable to the Plan.

(*l*1) Death Benefit Plan for Law Enforcement Officers. — Under all requirements and conditions as otherwise provided for in subsection (*l*), except for the requirement that the provisions are effective only after an agreement has been executed by the employer and the Director of the Retirement System, all law enforcement officers who are members of the Retirement System shall participate and be eligible for group life insurance benefits under the Plan, and employers shall fund the cost of these benefits.

(*l*2) Death Benefit for Retired Members. — Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 1988, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars ($5,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

(m) Survivor's Alternate Benefit. — Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option two of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that all three of the following conditions apply:

(1)a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or

b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with G.S. 128- 27(b15)(1)b. or G.S. 128-27(b15)(2)c., notwithstanding the requirement of obtaining age 50.

(2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who is living at the time of his death.

(3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection apply.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (l) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase.

(n) Increases in Benefits Paid in Respect to Members Retired prior to July 1, 1967. — From and after July 1, 1971, the monthly benefits to or on account of persons who commenced receiving benefits prior to July 1, 1965, shall be increased by twenty percent (20%) thereof; the monthly benefits to or on account of persons who commenced receiving benefits after June 30, 1965 and before July 1, 1967, shall be increased by five percent (5%) thereof. These increases shall be calculated after monthly retirement allowances as of July 1, 1971 have been increased to the extent provided for in subsection (k) above.

(o) Increases in Benefits to Those Persons Who Were Retired prior to January 1, 1969. — From and after July 1, 1973, the monthly benefits to or on account of persons who commenced receiving benefits from the System prior to January 1, 1969, shall be increased by a percentage thereof. Such percentage shall be determined in accordance with the following schedule:

Year(s) in Which Benefits Commenced	*Percentage*
1959 through 1968	10
1946 through 1958	25

These increases shall be calculated after monthly retirement allowances as of July 1, 1973, have been increased to the extent provided for in the preceding subsection (k).

(p) Increases in Benefits to Those Persons on Disability Retirement Who Were Retired prior to July 1, 1971. — From and after July 1, 1974, the monthly benefits to members who commenced receiving disability benefits prior to July 1, 1965, shall be increased by one percent (1%) thereof for each year by which the member retired prior to the age of 65 years; the monthly benefits to members who commenced receiving disability benefits after June 30, 1965, and before July 1, 1971, shall be increased by five percent (5%) thereof. These increases shall be calculated before monthly retirement allowances as of June 30, 1974, have been increased to the extent provided for in the preceding subsection (k).

(q) Notwithstanding any of the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1973, which shall become effective on July 1, 1974, as otherwise provided in G.S. 128-27(k), shall be the current maximum four percent (4%) plus an additional two percent (2%) to a total of six percent (6%) for the year 1974 only. The provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary.

(r) Notwithstanding any of the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1974, which shall become payable on July 1, 1975, and to each beneficiary on the retirement rolls as of July 1, 1975, which shall become payable on July 1, 1976, as otherwise provided in G.S. 128-27(k), shall be the current maximum four percent (4%) plus an additional four percent (4%) to a total of eight percent (8%) for the years 1975 and 1976 only, provided that the increases do not exceed the actual percentage increase in the Consumer Price Index as determined in G.S. 128-27(k). The provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary.

(s) Notwithstanding any other provision of this section, the increase in the allowance to each beneficiary on the retirement rolls as otherwise provided in G.S. 128-27(k) shall be the current maximum of four per centum (4%) plus an additional four per centum (4%) to a total of eight per centum (8%) on July 1, 1975, and July 1, 1976, provided the increases do not exceed the actual percentage increase in the cost of living as determined in G.S. 128-27(k). The provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary. The cost of these increases shall be borne from the funds of the Retirement System.

(t) Increases in Benefits to Those Persons on Disability Retirement Who Were Retired prior to July 1, 1971. — From and after July 1, 1975, the monthly benefits to members who commenced receiving disability benefits prior to July 1, 1965, shall be increased one percent (1%) thereof for each year by which the member retired prior to age 65 years; the monthly benefits to members who commenced receiving disability benefits after June 30, 1965, and before July 1, 1971, shall be increased by five percent (5%) thereof. These increases shall be calculated before monthly retirement allowances as of June 30, 1975, have been increased to the extent provided in the preceding provisions of this Chapter.

(u) Notwithstanding the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1977, which shall become payable on July 1, 1978, as otherwise provided in G.S. 128-27(k), shall be the current maximum four percent (4%) plus an additional two and one-half percent (2½%) for the year beginning July 1, 1978. The provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary.

(v) Increases in Allowances Paid Beneficiaries Retired prior to July 1, 1976. — From and after July 1, 1978, the monthly allowances paid to or on account of beneficiaries who commenced receiving such allowances prior to July 1, 1976, shall be increased by seven percent (7%) thereof. This increase shall be calculated before monthly allowances, as of July 1, 1978, have been increased to the extent provided for in the preceding subsections (k) and (u). The provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary.

(w) Notwithstanding the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1978, which shall become payable on July 1, 1979, as otherwise provided in G.S. 128-27(k), shall be five percent (5%) for the year beginning July 1, 1979. Provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary.

(x) Increases in Benefits to Those Persons Who Were Retired prior to July 1, 1978. — From and after July 1, 1980, the monthly benefits to or on account of persons who commenced receiving benefits from the system prior to July 1, 1978, shall be increased by a percentage in accordance with the following schedule:

Period in Which Benefits Commenced	*Percentage*
On or before June 30, 1959	10%
July 1, 1959, to June 30, 1968	7%
July 1, 1968, to June 30, 1978	2%

This increase shall be calculated independent of any other post-retirement increase, without compounding, otherwise payable from and after July 1, 1980.

(y) Notwithstanding the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1980, which shall become payable on January 1, 1982, as otherwise provided in G.S. 128-27(h), shall be the percentage available therefrom plus an additional six and six-tenths percent (6.6%); provided that in no case shall the increase exceed a total of seven percent (7%). The provisions of this subsection shall apply also to the allowance of a surviving annuitant of the beneficiary.

(z) Notwithstanding the foregoing provisions, the increase in allowance to each beneficiary as of July 1, 1983, which shall become payable on July 1, 1984, shall be three and eight-tenths percent (3.8%) as provided in G.S. 128-27(k) plus an additional four and two-tenths percent (4.2%) to a total of eight percent (8%). The provision of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary. The cost of these increases shall be borne from the funds of the Retirement System.

(z1) Notwithstanding the foregoing provisions, from and after July 1, 1985, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1984, shall be increased by four percent (4%) of the allowance payable on July 1, 1984, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1985, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1984, but before June 30, 1985, shall be increased by a prorated amount of four percent (4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1984, and June 30, 1985.

(aa) From and after July 1, 1985, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1985, shall be increased by six-tenths percent (0.6%) of the allowance payable on June 1, 1985. This allowance shall be calculated on the basis of the allowance payable and in effect on June 30, 1985, so as not to be compounded on any other increases payable on allowances in effect on June 30, 1985.

(bb) From and after July 1, 1986, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1985, shall be increased by three and eight-tenths percent (3.8%) of the allowance payable on July 1, 1985, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1986, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1985, but before June 30, 1986, shall be increased by a prorated amount of three and eight-tenths percent (3.8%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1985, and June 30, 1986.

(cc) From and after July 1, 1987, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1986, shall be increased by four percent (4.0%) of the allowance payable on July 1, 1986, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1987, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1986, but before June 30, 1987, shall be increased by a prorated amount of four percent (4.0%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1986, and June 30, 1987.

(dd) From and after July 1, 1988, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1987, shall be increased by three and six-tenths percent (3.6%) of the allowance payable on July 1, 1987, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1988, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1987, but before June 30, 1988, shall be increased by a prorated amount of three and six-tenths percent (3.6%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1987, and June 30, 1988.

(ee) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1988. — From and after July 1, 1988, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1988, shall be increased by one and two-tenths percent (1.2%) of the allowance payable on June 1, 1988. This allowance shall be calculated on the basis of the allowance payable and in effect on June 30, 1988, so as not to be compounded on any other increase payable under subsection (k) of this section or otherwise granted by act of the 1987 Session of the General Assembly.

(ff) From and after July 1, 1989, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1988, shall be increased by three and one-half percent (3.5%) of the allowance payable on July 1, 1988, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1989, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1988, but before June 30, 1989, shall be increased by a prorated amount of three and one-half percent (3.5%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1988, and June 30, 1989.

(gg) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1989. — From and after July 1, 1989, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1989, shall be increased by one and nine-tenths percent (1.9%) of the allowance payable on June 1, 1989. This allowance shall be calculated on the basis of the allowance payable and in effect on June 30, 1989, so as not to be compounded on any other increase payable under subsection (k) of this section or otherwise granted by act of the 1989 Session of the General Assembly.

(hh) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1990. — From and after July 1, 1990, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1990, shall be increased by six-tenths of one percent (0.6%) of the allowance payable on June 1, 1990. This allowance shall be calculated on the basis of the allowance payable and in effect on June 30, 1990, so as not to be compounded on any other increase granted by act of the 1989 Session of the General Assembly (1990 Regular Session).

(ii) From and after July 1, 1990, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1989, shall be increased by six and one-tenth percent (6.1%) of the allowance payable on July 1, 1989, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1990, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1989, but before June 30, 1990, shall be increased by a prorated amount of six and one-tenth percent (6.1%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1989, and June 30, 1990.

(jj) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1992. — From and after July 1, 1992, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1992, shall be increased by three and six-tenths percent (3.6%) of the allowance payable on June 1, 1992. This allowance shall be calculated on the allowance payable and in effect on June 30, 1992, so as not to be compounded on any other increase payable under subsection (k) of this section or otherwise granted by act of the 1991 Session of the General Assembly, 1992 Regular Session.

(kk) From and after July 1, 1992, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1991, shall be increased by one and six-tenths percent (1.6%) of the allowance payable on July 1, 1991, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1992, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1991, but before June 30, 1992, shall be increased by a prorated amount of one and six-tenths percent (1.6%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1991 and June 30, 1992.

(*ll*) From and after July 1, 1993, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1992, shall be increased by one and six-tenths percent (1.6%) of the allowance payable on July 1, 1992, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1993, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1992, but before June 30, 1993, shall be increased by a prorated amount of one and six-tenths percent (1.6%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1992, and June 30, 1993.

(mm) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1994. — From and after July 1, 1994, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1994, shall be increased by six-tenths of one percent (.6%) of the allowance payable on June 1, 1994. This allowance shall be calculated on the allowance payable and in effect on June 30, 1994, so as not to be compounded on any other increase payable under subsection (k) of this section or otherwise granted by act of the 1993 General Assembly in 1994.

(nn) From and after July 1, 1994, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1993, shall be increased by two and eight-tenths percent (2.8%) of the allowance payable on July 1, 1993, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1994, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1993, but before June 30, 1994, shall be increased by a prorated amount of two and eight-tenths percent (2.8%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1993, and June 30, 1994.

(oo) From and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1994, shall be increased by two percent (2%) of the allowance payable on July 1, 1994, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1994, but before June 30, 1995, shall be increased by a prorated amount of two percent (2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1994, and June 30, 1995.

(pp) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1995. — From and after July 1, 1995, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1995, shall be increased by six-tenths of one percent (0.6%) of the allowance payable on June 1, 1995. This allowance shall be calculated on the allowance payable and in effect on June 30, 1995, so as not to be compounded on any other increase payable under subsection (k) of this section or otherwise granted by act of the 1995 General Assembly.

(qq) From and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1993, shall be increased by seven-tenths of one percent (0.7%) of the allowance payable on July 1, 1993, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1993, but before June 30, 1994, shall be increased by a prorated amount of seven-tenths of one percent (0.7%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1993, and June 30, 1994.

(rr) From and after September 1, 1996, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1995, shall be increased by four and four-tenths percent (4.4%) of the allowance payable on July 1, 1995, in accordance with G.S. 128-27(k). Furthermore, from and after September 1, 1996, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1995, but before June 30, 1996, shall be increased by a prorated amount of four and four-tenths percent (4.4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1995, and June 30, 1996. (1939, c. 390, s. 7; 1945, c. 526, s. 4; 1951, c. 274, ss. 4-6; 1955, c. 1153, ss. 4-6; 1957, c. 855, ss. 1-4; 1959, c. 491, ss. 5-8; 1961, c. 515, ss. 2, 6, 7; 1965, c. 781; 1967, c. 978, ss. 3-7; 1969, c. 442, ss. 7-14; c. 898; 1971, c. 325, ss. 12-16, 19; c. 326, ss. 3-7; 1973, c. 243, ss. 3-7; c. 244, ss. 1-3; c. 816, s. 4; c. 994, ss. 2, 4; c. 1313, ss. 1, 2; 1975, c. 486, ss. 1, 2; c. 621, ss. 1, 2; 1975, 2nd Sess., c. 983, ss. 126-128; 1977, 2nd Sess., c. 1240; 1979, c. 862, ss. 2, 6, 7; c. 974, s. 1; c. 1063, s. 2; 1979, 2nd Sess., c. 1196, s. 2; cc. 1213, 1240; 1981, c. 672, s. 2; c. 689, s. 1; c. 940, s. 1; c. 975, s. 2; c. 978, ss. 3, 4; c. 980, ss. 1, 2; c. 981, ss. 1, 2; 1981 (Reg. Sess., 1982), c. 1284, ss. 1, 2; 1983, c. 467; c. 761, ss. 226, 227; 1983 (Reg. Sess., 1984), c. 1019, s. 1; c. 1044; c. 1049, ss. 1-3; c. 1086; 1985, c. 138; c. 348, s. 2; c. 479, s. 196(i)-(n); c. 520, s. 2; c. 649, ss. 8, 10; c. 751, ss. 1-4, 6; c. 791, s. 56; 1985 (Reg. Sess., 1986), c. 1014, s. 49(d); 1987, c. 181, s. 1; c. 513, s. 1; c. 738, ss. 27(c), 37(b); c. 824, s. 2; 1987 (Reg. Sess., 1988), c. 1061, s. 2; c. 1086, s. 22(c); c. 1108, s. 3; c. 1110, ss. 4-7; 1989, c. 717, ss. 13, 13.1; c. 731, s. 2; c. 752, s. 41(c); c. 792, ss. 3.4-3.6; 1989 (Reg. Sess., 1990), c. 1077, ss. 13-16; c. 1080; 1991, c. 636, s. 20(a); 1991 (Reg. Sess., 1992), c. 766, s. 1; c. 900, ss. 52(e)-(g), 53(a); c. 929, s. 1; c. 1030, s. 51.1; 1993, c. 321, ss. 74(b), 74.1(c), (d); c. 531, s. 3; 1993 (Reg. Sess., 1994), c. 769, ss. 7.30(b), 7.30(c), 7.30(d), 7.30(l); 1995, c. 507, ss. 7.22(e), (f), 7.23(c), (d), 7.23A(c); 1996, 2nd Ex. Sess., c. 18, s. 28.21(d).)

Editor's Note. —

Session Laws 1996, Second Extra Session, c. 18, s. 1.1, provides: "This act shall be known as the Current Operations Appropriations Act of 1996."

Session Laws 1996, Second Extra Session, c. 18, s. 29.5, is a severability clause.

Effect of Amendments. —

The 1996 Second Extra Session amendment, effective July 1, 1996, added subsection (rr).

CASE NOTES

Right of Employee to Rely on Retirement Plan. —

Where plaintiff had attained more than five years of creditable service before his injury, and before the date he submitted his application for disability retirement, he had contractual rights in pension fund. Hogan v. City of Winston-Salem, 121 N.C. App. 414, 466 S.E.2d 303 (1996).

Chapter 129.

Public Buildings and Grounds.

Article 7.

North Carolina Capital Building Authority.

Sec.
129-40 through 129-49. [Repealed.]

ARTICLE 7.

North Carolina Capital Building Authority.

§§ 129-40 through 129-49: Repealed by Session Laws 1987, c. 71, s. 2, effective April 14, 1987.

Cross References. — As to the State Building Commission, see § 143-135.25 et seq.

STATE OF NORTH CAROLINA

DEPARTMENT OF JUSTICE

Raleigh, North Carolina

November 1, 1996

I, Michael F. Easley, Attorney General of North Carolina, do hereby certify that the foregoing 1996 Cumulative Supplement to the General Statutes of North Carolina was prepared and published by Michie under the supervision of the Department of Justice of the State of North Carolina.

MICHAEL F. EASLEY

Attorney General of North Carolina

1585